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PUBLIC BUILDINGS AMENDMENTS OF 1988

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 2790

AN ACT TO IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF MANAGEMENT OF PUBLIC BUILDINGS

MARCH 3, 1988

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PUBLIC BUILDINGS AMENDMENTS OF 1988

THURSDAY, MARCH 3, 1988

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION,
AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 406, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan (chairman of the subcommittee) presiding.

Present: Senators Moynihan, Stafford, Warner, and Reid.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. The subcommittee will be in order.

This is a regular meeting of the subcommittee on the subject of public buildings reform, a matter of special concern to this committee over a number of years.

We are pleased to have the Administrator of the General Services Administration, Hon. Terence Golden, appearing as our first witness today. Over his years with the General Services Administration, he has demonstrated a great capacity for foresight and the ability to see things done and achieved. He deserves to be commended for the excellent job he has done as Administrator, and this Member would like to do so and will have a lot more to say later.

Our esteemed and revered chairman emeritus is here, and it is my pleasure to recognize him for any remarks he might wish to make.

Senator STAFFORD. Thank you very much, Mr. Chairman. I am glad to be here and am pleased that you are holding this hearing on buildings. This is a very important subject and of a great deal of interest to me.

For years buildings had no real home in our committee officially, and I am pleased that that situation is being rectified, and I am glad to be present at this hearing and look forward to hearing the testimony of Administrator Golden and the other witnesses.

Senator MOYNIHAN. Thank you, Senator Stafford.

At this time I will recognize Senator Reid for any opening statement he wishes to make for the record.

OPENING STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM THE STATE OF NEVADA

Senator REID. Thank you, Mr. Chairman, for holding this hearing today to consider legislation which reforms the General Services Administration's public buildings program. It is my pleasure to welcome Mr. Terence C. Golden, Administrator of the GSA, to the subcommittee.

I also look forward to the testimony of Mr. Douglas F. Collins, President of the Institute of Real Estate Management, and Mr. Ralph P. Silverman, Vice President and Chief Counsel of Charles E. Smith Management.

I became personally aware of the need to improve the public buildings program as a Member of the House of Representatives. While in the House, I represented the First District, located in Southern Nevada, which inciudes the City of Las Vegas. There is a shortage there of adequate housing for Federal employees. In addition, fully serviced office space rented for between $15 and $25 per square foot in 1986.

At one time, my Las Vegas district office was located in the Foley Federal Building. However, because of overcrowding and inaccessibility to the public, I moved to a better location. The FBI once occupied space in the building as well, staying just long enough to establish security measures before moving out to a different location. To exacerbate the problem, the Federal agencies are spread all over town, which poses a waste in travel time and inconvenience to Federal employees and the public they serve.

A year or so ago I voiced a continuing concern on this topic. Shortly thereafter, there were several meetings with Mr. Golden. I have enjoyed my relationship with him and want to say that, as a public servant, he was very receptive, productive, and efficient. Because of his efforts, we were able to secure additional office space for Federal employees in Las Vegas. Although more remains to be done, the building will alleviate what has been a terrible situation. I was pleased that Mr. Golden took the necessary steps to house people in a burgeoning area, one of the most rapidly growing areas in the country.

It is my understanding that Mr. Golden is leaving the Federal service, which I think it a loss to this country.

Senator MOYNIHAN. It is indeed.

Senator REID. As you know, Mr. Chairman, the problem is nationwide and needs to be addressed through comprehensive efforts to improve efficiency and reduce costs. The Federal Government has a stable, long-term need for adequate office space. Reforms are needed in the manner in which we secure and manage these properties.

I am indeed pleased to participate in today's hearing on comprehensive reform. In my opinion, many of these "housekeeping" measures are long overdue.

Thank you, Mr. Chairman.

Senator MOYNIHAN. Thank you, Senator Reid.

Mr. Golden will open this hearing, Would you proceed.

STATEMENT OF HON. TERENCE C. GOLDEN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION

Mr. GOLDEN. I am pleased to offer this testimony concerning proposed amendments to legislation affecting the management of the Government's real estate assets.

First I would like to say that, from my perspective, it has been a real pleasure working with this committee. We have found real enthusiasm for what we have been trying to accomplish, and I think that you have done extremely well. We could not have accomplished this much without the committee's full support. Working with you is one of the things that I will miss upon leaving this job.

As it relates specifically to today's agenda, when I came to the GSA, one of things I did was to talk to the individuals in the Public Buildings Service and ask them specifically what kinds of legislative changes were needed to improve the productivity of our public buildings service.

The material contained in our testimony is really a compendium of changes we would like to see made to the Public Buildings Act that would in fact accomplish that. I would like to point out that the legislation itself has not been changed in 14 years, and so I think we have got some catching up to do that is very important.

The changes themselves, in my mind, are not controversial. They are a series of items that I think make good practical sense, and that, when combined, should do a tremendous amount to reduce our paperwork and make us more efficient.

Basically, what we have listed on the chart are four major changes that we would like to propose. The first change would be to revise the prospectus limits for repair and alteration projects and leased projects. Currently the threshold for expenditures is $500,000; and for new repair and alterations projects that we undertake in excess of $500,000, we need to come to Congress and get an approval of our prospectus.

Proposed Changes To Public Buildings Legislation

1. Revise Prospectus Requirements
   —Raise Threshold From $500,000 To $1.5 Million
2. Revise Economy Act To Remove 25% Ceiling On Lease Alterations
3. Strengthen Federal Protective Programs
   —Provide GSA Authority To Make Agreements with State and Local Agencies To Provide Protective Services In Federal Buildings
4. Make Permanent GSA's Authority To Perform Certain Law Enforcement Functions

Senator MOYNIHAN. Sir, you will not mind if we just interrupt you from time to time, will you?

Mr. GOLDEN. Of course not.

Senator MOYNIHAN. When was the $500,000 limit put in place?

Mr. GOLDEN. The last change was in 1972.

Senator MOYNIHAN. In the legislation?

Mr. GOLDEN. That is correct.

Senator MOYNIHAN. So you were just about keeping level with inflation, weren't you?

Mr. GOLDEN. Yes, sir. I have to say, from my own prospective, that I strongly recommend that the level be increased to $2 million.

Senator MOYNIHAN. To keep ahead of inflation.

Mr. GOLDEN. That is right. I think some charts later on will explain why, in terms of the oversight of this committee, we would capture most of the dollars by making the change and that there would be a substantial reduction in the amount of paperwork we must all do in order to accomplish that.

The second item is to revise the Economy Act to remove the 25 percent ceiling on lease alterations. Basically, what happens here is that every time GSA alters leased space, if we have to expend more than 25 percent of the first year's lease payment on alterations, we have to go through an elaborate evaluation process in terms of justifying that. Ultimately, the Administrator then waives the requirement to proceed with the work.

What I think will happen is that this revision would eliminate a lot of paperwork that really has not provided us with any additional insights in terms of the transaction.

Senator MOYNIHAN. What is the average outlay at present? Would it be unusual to spend 50 percent?

Mr. GOLDEN. Twenty-five percent is certainly not unusual. You could typically be spending anywhere from $15 to $20 a square foot in terms of alterations. The typical lease payment might involve in the first year in Washington, D.C., about $30, so the 25 percent cap is less than adequate.

Senator MOYNIHAN. So that when an agency moves out and a new one moves in, it provides an opportunity to clean up, fix up, and revise?

Mr. GOLDEN. That is right, or it could be a new lease where we are looking at the requirements for alterations to meet the needs of the Federal Government, and typically on a new lease the requirements exceed 25 percent of the first year lease payment. I want to say from my perspective that it is a question of looking at the big picture. What we have been doing is creating a lot of paperwork that really has not had much satisfaction in terms of the whole procedure.

Senator STAFFORD. Just, for example, what would be the result of raising the 25 percent ceiling to 50 percent? Would that take care of the problem?

Mr. GOLDEN. It clearly would make a significant improvement. However, it is not a solution. If you are paying let's say $20 to $30 for a lease in the first year, it would not be unusual to spend that amount on alterations, particularly when you are talking about the Federal Government's need for computers and special equipment.

My sense is that eliminating the requirement would be of significant help in focusing the big picture on what we are trying to accomplish and what the cost is going to be and allowing us to move forward and get the job done.

Senator MOYNIHAN. You would just as soon have no ceiling?

Senator STAFFORD. If you had no ceiling for the prospectus requirement, if you raised it to $1.5 million, what would the result be?

Mr. GOLDEN. Clearly, as far as the prospectus process is involved, the alterations would be included in the dollar ceiling that we are talking about. We would come under that requirement in any case if we exceeded the prospectus limitations.

Senator STAFFORD. All right, thank you.

Mr. GOLDEN. The third area that we would really like to work on is in strengthening our protective programs. This is the particular situation that we have today. We have approximately 400 buildings that are exclusive Federal jurisdiction. That means that we, the Federal Government, are the only ones that have protective jurisdiction to provide fire and safety services to those buildings.

In many cases they are in small towns. In many cases we are really not available to provide those services, and from our perspective, it makes a tremendous amount of sense that we allow and give the ability for us to grant the authority to State and local governments so that they might have jurisdiction.

There are some situations where if we did in fact have a fire in a Federal building, although I think typically the local fire department would respond to it, a local fire department may have insurance problems and they really do not have the jurisdiction to be covering us. So it is a problem that I think, from our perspective, really needs to be clarified.

I think as we discuss it a little bit later, you will see that this is an issue in terms of our overall long-term plan for safety and security in Federal buildings. This particular change will enhance our abilities to deal with issues like terrorism and crime in high-crime areas. It is part of an overall program we have.

Finally, the last one is also a law enforcement item. It makes permanent GSA's authority to perform certain law enforcement functions. Basically, we are granted that authority on a year-to-year basis in our annual appropriation, and this provision really grants us law enforcement jurisdiction in leased space permanently. So this makes permanent something that we have been doing for a number of years in our annual appropriations, and it is a matter of just getting that point clarified.

Now, if I could go into the detail on just several of those points. One is the question of the impact of raising the prospectus threshold. In this case, this chart is based on a prospectus threshold of $2 million. I think that this chart amply demonstrates what in fact happens.

Impact of Raising Prospectus Threshold

	Existing		Proposed	
	No.	$ (millions)	No.	$ (millions)
Leases	62	364	25	319
Repair and Alteration	41	277	29	262
Construction*	2	$10-50	2	$10-50

*Varies annually.

Mr. GOLDEN. As you can see from the chart, there is a tremendous decline in the number of prospectuses actually being reviewed. In this particular case, when you add up the leases and the repair and alteration prospectuses, the drop by raising from $500,000 to $2 million would be a drop in terms of the number of prospectuses from 105 to 56.

Senator MOYNIHAN. Ah, but the amount of money is not very much at all.

Mr. GOLDEN. Not much at all. And I think really the role of Congress might best be served by focusing on the major policy issues and the major dollar amounts rather than on a large amount of paperwork.

Senator MOYNIHAN. That is very compelling. On repair and alteration, you drop from $277 million to $262 million, and yet all that paperwork would disappear. And you would not drop——

Mr. GOLDEN. Not significantly.

Senator MOYNIHAN. And on leases, dramatically so.

Mr. GOLDEN. And I think what people sometimes fail to understand is what is really happening in the bowels of the ship with the $500,000 limitation that we have.

In my mind we have two problems. One is that every time we go to Congress to get a prospectus approved, we are really adding a year onto the process of whatever we are trying to accomplish. That really is part Congress, in my mind, but part administration. The whole process of getting the prospectus prepared and approved by OMB takes a tremendous amount of time; then finally to get it reviewed and approved in Congress takes a longer period of time. I think we are building in delay.

The second thing is that we really have to take into consideration what we are trying to do, and that is to either improve our buildings, or in the case of leases, to deal with critical needs we have. Typically, we have needs today for leased space, and I think particularly one area that I am thinking of is the courts.

When we have to make a modification and add an additional courtroom onto a Federal building, it is really important that we do it quickly and promptly, because typically we have a Federal judge waiting for that space. So if we are talking about an alteration or a repair project, by raising this threshold, at least in this particular example, for approximately 50 cases, we reduce the time it takes by 12 months, and as a result of that, we improve our service to our client agencies dramatically.

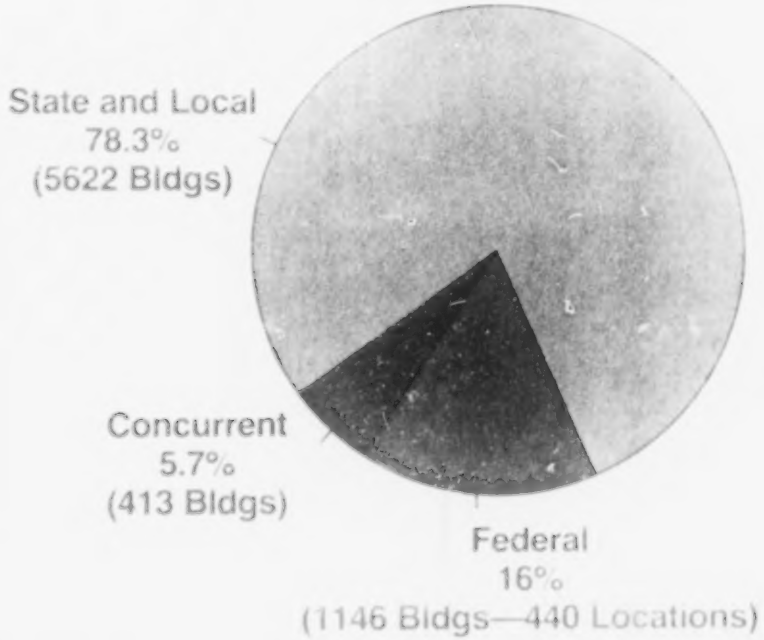
My sense is that we ought to focus on the major projects and policy and not get involved in a lot of case work, which is, I think, what we are involved in today.

As far as the jurisdictional issue is concerned, this chart really tells you a lot about where we are within GSA. The vast majority of our buildings today, State and local governments do have jurisdiction over them, some 78 percent. We have concurrent jurisdiction on 5.7 percent of our buildings. That means that both the Federal Government and State and local have jurisdiction in those cases.

And then, finally, in 16 percent of our cases, approximately 1,100 buildings, some 440 locations, the Federal Government has exclusive jurisdiction.

Recommendation: Extend Jurisdiction of State and Local Authorities

Total Federal Buildings—7,181



Senator MOYNIHAN. By which you mean the police authority and fire protection?

Mr. GOLDEN. That is right. The flip side of that is that the State and local authorities do not have jurisdiction and therefore have problems. If we need help, they have difficulties both in terms of their own liability and their authority to actually enter upon Federal property. So it is a problem as far as we are concerned.

What we are really trying to do within GSA as it relates to security, we have gone through a major analysis of our security in Federal buildings, and really there are two things that have been driving that. One is the issue of terrorism. I think we have got to recognize that we have a major problem with terrorism and the potential for terrorism in this country.

Secondly, we note that there is a significant problem, particularly in our major urban areas, with crime. What we have done as a result of this study is really reconfigure our forces. In those localities where there is very little crime and where there is no terrorist threat—and I use Columbia, South Carolina, as an example—there is really not a need necessarily for a Federal protective officer in a Federal building. We can use local protection; we can hire guards or whatever.

But in the major urban areas where we do in fact have a significant threat from terriorism—Washington, DC, New York, Boston, Miami, places like that—we want to concentrate our resources both because of the terrorist threat and crime.

What this does is give us the ability to work with local governments on those over 1,000 buildings to negotiate and see if we can get support so that we can concentrate our resources where they need to be concentrated.

Senator MOYNIHAN. Just to take an example that you and I are familiar with, we will open a regional Social Security building in Jamaica, Queens, NY, which from the time we have begun until today has been what was a very stable residential area. An old urban center—old meaning 17th century old, one of the signers of the Declaration of Independence and one of the first Senators is in the church yard across the way—but this has suddenly become a center of drug trafficking, with the murder of a police officer not 5 days ago in Jamaica.

You will want police in that building, will you not? You will want New York City police in that building.

Mr. GOLDEN. Clearly and what it also enables us to do in that particular circumstance is, because they are there, and because New York has been identified both from a crime and from a terrorist point of view as a high-threat area, to supplement their efforts by concentrating our resources in such areas. We supplement their activities.

So in cases where we think there is a real threat, we are not going to necessarily rely totally on them but will be supplementing them with Federal protective capabilities as well.

I guess that the final point that I wanted to make is a point that, in our legislation that was passed by the House, they did include provisions which would require us to the maximum extent feasible to comply with local zoning codes.

Now, the Senate version of the bill, at least the draft that is being contemplated, does not include those provisions, and I just wanted to speak out strongly that I think that we would be making a serious mistake obligating the Federal Government to comply with local zoning codes to the maximum feasible extent .

I think clearly the idea of communicating with the local community, discussing what we are doing, having them have an opportunity to review our plans and participate in the process, makes a tremendous amount of sense. My concern is what the impact would be in terms of litigation and delay of Federal projects if there was some restriction where we had to comply to the maximum extent possible with zoning laws.

Clearly, I have been in experiences myself where zoning has been changed when the local community was not particularly enthralled with a project. We have certain issues that we have to deal with, and I would include VA clinics falling in that category, prisons, and defense installations, where for different political reasons there may be a lack of desire in a local community for a particular project I would hate to have legislation in place that would restrain us from doing those needed projects.

Clearly, the vehicle is there for the local Congressmen or for Senators to appeal, and there is a process involved where they can come to this committee and speak to the administration, but we do not want to have legislation in place that might artificially restrict and significantly delay projects overall.

My sense is that the Senate version does not include that, and I feel strongly about that provision and would hope that it would not be included.

Senator MOYNIHAN. So you move that we insist upon our provision?

Mr. GOLDEN. That is correct.

Senator MOYNIHAN. Sir, can I just say that there is no provision in our bill that deals with the lease-to-own arrangements and such like that you have been so diligent in advancing, as in the case of the Federal Triangle building that we stay in short term and the new Judiciary building which we hope to get out of this committee shortly, but nothing in this—the absence of any such provision does not preclude this financing technique.

Mr. GOLDEN. That is correct. Well, the House version, in fact, does include a lease-purchase provision, and I guess that the point that I would like to make is that it has been clear in my discussions within the administration, particularly with OMB, that were we to include general, broad lease-purchase provisions in legislation that it would be vetoed.

From my perspective, the various items that we have listed and the changes that we would like to get accomplished are important, and the addition of lease purchase would jeopardize the entire bill.

Senator MOYNIHAN. For the record, in this hearing, the absence of any provision in the Senate measure does not in any way preclude this practice. The practice is this now, and we will continue to do it.

Mr. GOLDEN. I think clearly that the Senate has, on a case by case basis, as has the House, dealt with that issue I think remaining silent leaves the flexibility to deal with that issue in the future.

But I think that the important thing is, at some point, that the Administration and Congress get together and deal with the critical issue that we have concerning the high cost of leased space and the continuing escalation in those costs. We must come up with an effective manner of dealing with that issue.

Senator MOYNIHAN. But this does not appear to be that moment.

Mr. GOLDEN. That is correct.

Mr. Stafford.

Senator STAFFORD. Thank you, Mr. Chairman.

Mr. Golden, as I look over the situation here and your proposals, I see nothing in what you have proposed that I find offensive. I do have in mind, though, that three times, I believe, the Senate has passed legislation which we thought would incorporate good changes for buildings and GSA; and three times our efforts in the past have come to naught.

In the present instance I notice that H.R. 2790 that the House has passed not only incorporates the four items that you have mentioned but several that at least the administration finds highly objectionable because in one instance it would exempt the Administrator of GSA from the Anti-Deficiency Act, and it would circumvent Gramm-Rudman Hollings and bypass the deficit reduction program that the Congress and the administration embarked on last fall.

With that in mind, I think if we proceed with the proposals you have put in front of this committee—I would say this, Mr. Chairman, to you, that we need to proceed with some caution, because if we do accept these proposals we are almost surely going to find the House may attempt to place the proposal it has put in H.R. 2790 on whatever bill we prepare over here. The administration, as I understand it, will recommend and expect to get a veto if the House provisions stay in the bill or end up on a bill that we pass here.

Mr. GOLDEN. That is correct.

Senator STAFFORD. So I think that we have to keep that in mind, and if we do send over a bill, be prepared to stick with it and avoid entangling encumbrances with the House.

Senator MOYNIHAN. That is a very wise observation, which I certainly agree with.

Senator Reid.

Senator REID. Mr. Chairman, I just have an observation. I think that your brief comment beginning these hearings about the historical perspective of this committee and the fact that as we travel around both in this country and in other countries, one of the things that we always look at are the buildings that have been constructed by governments.

Take the State of Nevada, which has only started growing in recent years. We have in Las Vegas this very tiny Federal building that was constructed in the 1930's. It is a beautiful building.

Senator MOYNIHAN. That was a good period.

Senator REID. In fact, there was some talk about the Federal Government getting rid of that building because it was so small. It is a little Federal post office and it was a court house.

The buildings that we now have really are not monuments to anything. They are office buildings, nothing special at all.

This subcommittee and this committee talk a lot about the infrastructure, highways, bridges and roads, how we are so lacking in those, and how they as public works projects produce so many jobs and a lasting goodness for this country. But in that formula we always leave out buildings.

Senator MOYNIHAN. Yes.

Senator REID. And buildings, in my estimation, are important, and I think that the lack of construction of Federal buildings is a period of history that we will not want to look back on. I think that some of the innovative methods that Mr. Golden has suggested where there would be buildings built by private industry to certain specifications, the Federal Government could accept, I think that that is something that we should look into as maybe an answer to the problem.

But I think until we recognize that we have a tremendous shortage of buildings—and I think that people that come to Washington, one of the things that people always comment to me is how beautiful the buildings are, people coming from the West.

I think that we have kind of lost sight of that, lost sight of that in the name of economy, and maybe in the name of economy we are going to look back and say that we really missed our place in history.

Senator MOYNIHAN. That was beautifully said, and I do not know that there is anything more to be said.

Mr. Golden, we thank you very much, and we are going to hear from some members of the industry, and we will move forward on this legislation with the cautionary counsel of our chairman emeritus.

Mr. GOLDEN. Well, thank you very much. I really appreciate the timely nature of this hearing, that it was moved up and that we were able to accommodate schedules. It really worked out well, and I am most appreciative of working with you. It is such a pleasure.

Senator MOYNIHAN. As are we.

And now we are going to hear from Mr. Douglas F. Collins, the President of the Institute of Real Estate Management, and Mr. Ralph Silverman, the Vice President and Chief Counsel of Charles E. Smith Management.

Mr. Silverman, would you join Mr. Collins? We will have a panel here.

Gentlemen, we welcome you, and Mr. Collins, you are listed first on our witness list, and we have your statement, sir; you might want simply to place it in the record and then tell us in your own words what the Institute of Real Estate Management has to say on the subject.

STATEMENT OF DOUGLAS F. COLLINS, PRESIDENT, INSTITUTE OF REAL ESTATE MANAGEMENT, NATIONAL ASSOCIATION OF REALTORS

Mr. COLLINS. Thank you, Senator Moynihan.

Incidentally, Senator, we would like to express our thanks to you for your efforts on behalf of preserving the like-kind exchange rules in the 1987 tax bill.

Senator MOYNIHAN. You are very welcome.

Mr. COLLINS. For your information, my name is Doug Collins. I am from Tulsa, Oklahoma. I am the President of the Institute of Real Estate Management. Our company in Tulsa does engage in the field of real estate management and office building leasing.

For the sake of brevity, the Institute of Real Estate Management is a 50-some-odd-year-old organization. We designate people with a professional designation called Certified Property Manager. In point of fact, a number of our members do work for the GSA.

We manage over $900 billion in assets. Approximately, conservatively, $300 billion or so of those assets would be office buildings. What the Federal Government does in the way of office space does have a considerable impact upon members of our organization and on our industry.

Among the things that we have some concerns about, and I will briefly outline those——

Senator MOYNIHAN. Take your time, Mr. Collins.

Mr. COLLINS. Well, let me tell you, the last time I testified before any august body such as this was before the Senate Judiciary Committee in the Oklahoma State Legislature, and it is a big jump, let me tell you that.

We are very concerned about what the Federal Government does in terms of leasing office space. We do not quarrel with the fact that the Federal Government does need to own office buildings for their own use. However, there is a sizable percentage of the office space leased from the private sector. The decisions that this committee will make and that the House and the Senate will make, will have an impact on that percentage of office space that is in the private sector.

We are concerned about a number of the points that Mr. Golden has made. I would like to commend GSA on improving over the years that I have been in the industry their method of locating and identifying office space suitable for their needs. It has improved; the process is significantly better than it was 20 years ago, and I think that may be in part due to the efforts of this committee over the years, too. So we would like to go on record as stating that. It is much easier, if I can use the term, to do business with the GSA than it used to be. It is a less political animal perhaps today than it once was.

We have some concerns about the reduction of the square footage of government space housed in private buildings. We have some concerns about the potential for quote, unquote, outleasing of space in Federal buildings that might be owned by the Federal Government to house government agencies but also leased to outside entities. I will get to that a little bit later.

Presently, the office market in the United States is not very healthy in most of the United States. It is healthier in some areas than it is in mine, particularly. We presently have 30 percent of our office space available.

Senator MOYNIHAN. That is Tulsa?

Mr. COLLINS. That is correct. Our economy in Oklahoma and Texas is oil related, particularly, and we did have a boom, and now we are having our bust, quite frankly.

The statement was made to me back on October 19, "How did you fare with the stock market dropping?" I said, "There wasn't

anybody else left to lose any more money. We were already broke." So that is kind of where we are.

The reasons for being over-built are twofold, which are partly the function of our economy and partly the function of some of the tax acts of the early 1980's that gave too much incentive, perhaps, that we have had to deal with. Of course, we have faced the changes in the tax incentives in real estate in 1986.

But without elaborating on why the situation exists, I will give you some examples of actual things that our company is working on. At the present time we are working with the GSA to identify some space for a government agency in one of the buildings that we have an exclusive leasing arrangement.

The building was designed and built to be leased at $14 to $15 a square foot. Our proposal to the GSA is $9.40 a square foot. In the year-and-a-half that we have had exclusive leasing on this building, we have leased to one tenant, 10,000 square feet out of about a 60,000-foot building.

There are a number of reasons for that, but needless to say, it is very important for us to get another tenant. We have made some substantial concessions in order to lease to the GSA for this particular agency.

There is not a high percentage of office space in cities other than the fairly good-sized metropolitan areas. Washington, D.C., Atlanta, and Denver appear to have a high percentage of government-leased space over other cities in the United States.

Denver, for example, one of our members in Denver indicated that the government does get preferential treatment in leasing office space, perhaps $10 for a government agency, and $12. And there are some reasons for that, too.

Senator MOYNIHAN. Yes.

Mr. COLLINS. It may have to do with the government's requirements for tenant fees—it may not be quite as high—but there is another reason. We know that we are going to get our check every month from the Federal Government. We are not so sure about some of the others.

We have in one of the buildings that we presently manage a government agency that first occupied the building in 1983. We had not begun our decline yet in 1983, and their lease rental rate in that building was $15 a square foot.

In 1985 they needed to expand. We renegotiated the lease, asked them to extend. This, in point of fact, is one that does not have to go through the GSA, but it is a good example in any event. They did expand, and their effective rental rate became at that time around $9 a square foot. Now, that was a lease that was made in 1983 at $15.

They have just renegotiated again, and their effective rate will be still less than $10 a square foot. It gives you an idea of the impact of the market at work and the cost of rental office space in the United States.

A second area we are concerned about is the government's ability to issue timed financing through bond instruments issued by the Treasury.

There are two reasons that we are concerned about this. This is in the area of potential outleasing of government buildings, and it

does give the public sector—if I can use that—perhaps an unfair competitive advantage in building office buildings that the private sector does not have.

As it relates to outleasing, I envision that perhaps at some point in time the government might build buildings that were larger than their needs. I think that it is perhaps a little bit naive to think that private companies really want an office in government-owned buildings, unless there is a significant rent advantage. That is perhaps an unfair competitive advantage that a government building might have. It is in direct competition.

The third feature that we are concerned about is that it is my understanding that Federal Government buildings are exempt from local ad valorem taxes, and that being the case, that would be another area of unfair advantage over private competition in the office building sector.

Senator MOYNIHAN. Could I ask you, Mr. Collins, is there now any example of a Federal building having significant office space which is being leased out to private tenants?

Mr. COLLINS. Well, not to my knowledge, in my market.

Senator MOYNIHAN. Not to your knowledge. So we have never done this?

Mr. COLLINS. I am not saying that it has never been done.

Senator MOYNIHAN. As far as I know, we have never done it, and with some very special exceptions, we do not plan to do it.

Mr. COLLINS. All right. I want to just go on record that we are concerned about that. We do agree——

Senator MOYNIHAN. You should be concerned about a 30 percent vacancy rate. Don't be concerned about the government.

Mr. COLLINS. We are definitely concerned about that. That is our major concern, to tell you the truth.

We agree with the increase of the prospectus threshold from $500,000 to $1.5 million.

Senator MOYNIHAN. I see that. And you got the numbers just right. It is exactly on the button about the 160 percent figure.

Mr. COLLINS. Is it?

Senator MOYNIHAN. You say so.

Mr. COLLINS. Our staff is responsible for those numbers. Thank you, sir.

We are concerned, however, with the use of construction cost as an index of measuring the rental market. We would suggest that perhaps another index would be a rental rate figure, a national rental rate figure that might be used as an index with which to automatically increase that threshold.

Senator MOYNIHAN. Oh, yes.

Mr. COLLINS. Construction costs tend to go up regardless of anything else. Rental rates go all over the board. They may go down due to market conditions.

Senator MOYNIHAN. Right. They are marginal prices.

Mr. COLLINS. Right.

One of the things in H.R. 2790 has to do with the multi-year contracting for services. Apparently there is some feeling that that is the best way to go because of the economies. Quite frankly, my experience in the field of real estate management indicates that

multi-year contracts are more harmful and detrimental in terms of the service provided by the contractor than short-term contracts.

We believe that a 5-year contract probably is longer than necessary in some cases.

Senator MOYNIHAN. Really?

Mr. COLLINS. That is correct. As a matter of fact, most of our service contracts on office buildings require that specifications and bids be given to us on an annual basis. We do it with elevator maintenance contracts, we do it with janitorial contracts, landscape maintenance contracts, almost everything.

We do not change just because there is a lower bid. We only select qualified contractors. We will not solicit bids from unqualified contractors—and, quite frankly, in our opinion, there are unqualified contractors that may bid—and perhaps the GSA would not have quite as much latitude in making those decisions that we have.

Our experience has been that the service stays at a higher level if they know that they are going to have to be in a bidding competition again in one year. Perhaps in some cases longer contracts would be more of an advantage. We do not find one-year contracts on elevator maintenance, for example. No qualified elevator contractor wants anything less than a 2- or 3-year contract. Those are special cases.

While we support the increase to $1.5 million for the prospectus threshold, we are concerned about the 25 percent rule on alterations to existing space. I know that that number is outdated. Quite frankly, I was surprised that it even existed. But we do feel that there should be some congressional control over the fiscal integrity of the regional administrators.

I might suggest—and this is purely a thought that I had while Mr. Golden was testifying—that maybe a more accurate number might be a percentage of the total lease rentals under the terms of the lease. If there was a three-year lease at $30 per year, it would be $90, and then 25 percent of that would be $22.50 a square foot. That might be a better way to do it, total lease dollars to be expended over the terms of the lease rather than the 25 percent of the first year annual rental. That is an archaic number. Quite frankly, it does need to be modified in some way.

As to the security provisions in H.R. 2790, I think that Mr. Golden covered accurately in his testimony what my questions were. We do not see any problem in that area.

Otherwise, I would like to thank GSA again for the thoughtful ideas that they have given and to the improvement that they have made in the business practices in GSA over the past several years.

I would like to thank you all for letting me have the opportunity to appear on behalf of myself personally and the Institute of Real Estate Management and the National Association of Realtors. We look forward to working with you and your staff in formulating policies in this area.

Thank you very much. Now, if you have any questions, I would be glad to answer them.

Senator MOYNIHAN. We thank you, Mr. Collins. You have been very helpful. It is a testimony that we do not get every day from

people who have the exact same business in the private sector. It was very thoughtful of you to come forward.

We recognize that there is a measure of competitiveness here in that we lease in the private market as well as build. So you have a right to know what we are thinking about, and we need to know what you are thinking about.

Senator Stafford.

Senator STAFFORD. Thank you, Mr. Chairman.

I would just have one or two brief comments after listening to you, Mr. Collins, and that is that everybody is quite right who says that the Federal Government is not going into the direct immediate building of buildings because of the obvious problems that we have with deficit and debt and the cost.

I wish that we did have the money to build the buildings and own them, as far as the Federal Government is concerned, but that is out of the question. So we are in the lease business, and it has long been the thought of some of us on this committee that we should be in the lease-purchase mode; that is, we lease but have a right to buy the building at the end of 30 years.

In the past, and looking at the figures in your statement that cover 10 years or more, it is obvious that the cost of renting space has gone up quite sharply, I think from $7 or $8 to $19 a foot in your own figures, so that were we leasing a building that we could buy 30 years after we started the lease, we are in better shape to own the building at the end of 30 years than to be looking at 30 years' worth of rent receipts and be told that the space is available again but at a very much higher rate than formerly. So that has been the position of many of us on this committee over the years. We try where we can to have a lease-purchase agreement.

Obviously, where that is not possible, we may have to just lease. It is amazing how much unoccupied space there is in the major cities right now, and leaseholds look attractive. But if we get into another inflationary mode, which I hope we will not, we can again see rentals heading up.

So I am just passing on some of the thoughts, stream-of-consciousness style here, that go through an ex-chairman of this committee.

Senator MOYNIHAN. Mr. Collins, a vote been called, and so I am going to have to recess the committee for a moment.

Let me say that we have heard you fully. You heard what the chairman emeritus has said. We very much appreciate your thoughts. We will probably be turning to the association for specific comment as we move forward in the drafting process and the legislative process. Would you extend our appreciation to the staff of the realtors? I think that we will dismiss you now, with appreciation.

Mr. Silverman, if you would be good enough just to wait, the committee will stand in recess while we vote.

[Brief recess.]

Senator MOYNIHAN. Here we are again, and now we have the pleasure to hear from a realtor close to home, Mr. Ralph Silverman, who is Vice President and General Counsel of the Charles E. Smith Management.

STATEMENT OF RALPH P. SILVERMAN, VICE PRESIDENT AND CHIEF COUNSEL, THE CHARLES E. SMITH COMPANIES

Mr. SILVERMAN. Senator Moynihan, I appreciate your giving us this opportunity to present both written and oral testimony this morning on H.R. 2790.

Just for the record, I am Ralph Silverman, Vice President and Chief Counsel of Charles E. Smith Companies. My principal responsibility over the last 6 years has been to negotiate and finalize leases, office space, to the Federal Government in the national capital region.

Our comments are based on approximately 30 years' experience in leasing space to the Federal Government in the national capital region, and being the major provider of office space to the Federal Government in the Washington metropolitan area. So we are talking about——

Senator MOYNIHAN. Are you the major provider now?

Mr. SILVERMAN. Yes, we are.

Senator MOYNIHAN. My wife and I were driving out to the airport on Saturday, and she commented that the area is like mushrooms. Every time it rains, there is a new building out there.

Mr. SILVERMAN. Well, we sort of specialize in building mixed-use complexes.

Senator MOYNIHAN. Yes. Very handsome buildings.

Mr. SILVERMAN. We built the Crystal City, Skyline City, always adding buildings in those complexes. We like to feel that it is a nice place to not only work but also live.

Senator MOYNIHAN. It could be a very sterile environment when it is not.

Mr. SILVERMAN. That is right.

We are Washington's largest commercial real estate developer, and we employ 1,900 people in our management and on-site activities and in leasing. We have built and managed 15 million square feet, of which we have leased to the Federal Government approximately 3.5 million square feet.

Senator MOYNIHAN. Let us get that—of your 15 million, you lease about 20 percent, 25 percent——

Mr. SILVERMAN. Twenty to 25 percent, that is correct.

Senator MOYNIHAN. And the rest is to——

Mr. SILVERMAN. To private sector.

Senator MOYNIHAN. Yes.

Mr. SILVERMAN. We support increasing the administrator's authority from a $500,000 to $1.5 million or to $2 million, as Mr. Golden has testified, because to alter space in existing buildings and enable the agency user to more functionally use that space and add a facility within that threshold would certainly make good sense. And it would be done in an expeditious manner. It think that it is pretty obvious that——

Senator MOYNIHAN. So we have the support of all of you.

Mr. SILVERMAN. Yes. Not only that, but within that threshold if an agency already has a prime lease in a building and they need some small additional space, they have an urgent need, they have got some new people coming in, they can add that space as long as it is within that threshold, and many times they can get it at a

very good buy because it is already built, "as is," and they can move right in and occupy.

We have leased space to the Federal Government on that basis and been able to satisfy that agency requirement within literally a matter of a few days and move the agency into that space.

Senator MOYNIHAN. Yes.

Mr. SILVERMAN. We oppose the limitations in the H.R. 2790 on the administrator's leasing authority with reference to searching out public buildings where special facilities are required and having to get congressional approval for that.

We do not oppose the concept of major facilities being housed in public buildings, but we feel that Congress should repose confidence in the administrator because he has the built-in safeguards of oversight within the internal structure of the General Services Administration such as audit, regional, and central clearance procedures and divisions, to adequately oversee such a mandate, which this committee could include in the bill.

However, we believe that Congress should define what they mean by major facilities. Our principal objection, however, to this section 3 of the act is that it would add additional time to what has become an intolerable, exorbitant schedule for leasing space to the Federal Government.

Our experience on major leases, which would entail these types of special facilities that are enumerated here—computer facilities, court rooms, SCIF's, secured compartmentalized information facilities—they occur in major leases, 30,000, 40,000 feet and up. DOD principally will incorporate them in their space requirements.

It currently takes approximately 2 to 3 months prior to the SFO even being solicited or issued to the developer, the lessor, from the time that the agency indicates its need, and then it takes approximately 3½ months for the award to be made after the solicitation for offers is issued, and then it takes 11 months to deliver that space.

So you are talking about a time frame of approximately 16½ months after the agency has indicated its need for it to actually move in, occupy usable space. Most of that delay is due to the internal requirements of the General Services Administration, the CICA Act, which has to comply with the advertising in full and open competition, the audits, the plan approvals; but the major delay is due to the agencies, because they cannot seem to be decisive in a timely manner, and that adds many months of delay to the process.

Senator MOYNIHAN. And so that has to add—and I do not want to ask any trade secrets, but that must—are you expected, do you find yourself having to keep space unoccupied during these processes?

Mr. SILVERMAN. Actually, what we do is the same thing that other developers and lessors that deal with the Federal Government do, and that is pursue a two-track system. At the same time that we are offering space to the Federal Government, we do not take it off the market to the private sector, and it is only after, of course, the award is made that we are locked in, so to speak, and then proceed with due diligence to deliver the space. So we are

really talking about a 3½ to 4 month period that the two-track system is followed.

Senator MOYNIHAN. Does this in the end have the effect of raising the cost to the Federal Government?

Mr. SILVERMAN. Absolutely.

Senator MOYNIHAN. It does.

Mr. SILVERMAN. Absolutely, and it also eliminates competition, because there are many lessors who just will not do business with the Federal Government.

Senator MOYNIHAN. You have a big enough inventory that you can make these calculations, but you have to charge more because it takes longer.

Mr. SILVERMAN. It takes longer, but bear in mind that we have to be competitive, too, and we are very proud to be a major provider of office space, and we want the government to be our major tenant, but we have these obstacles that we have to overcome which should be addressed. That 16½-month period compares to a 3½-month period that it takes to lease the same amount of space with the same special facility in the private sector.

Senator MOYNIHAN. All right. That is what I am after.

Mr. SILVERMAN. That is the key.

Senator MOYNIHAN. The 3½ months to RCA and 16 months to GSA.

Mr. SILVERMAN. Precisely.

Senator MOYNIHAN. And that has to mean that you will end up charging more because it costs you more.

Mr. SILVERMAN. Exactly. And as far as the cost of these special facilities, certainly they can be included in the prospectus if the agency has decided at that time what they want. Unfortunately, we are requested in the eleventh hour, just before we are about to deliver space sometimes, to put in a major facility, and it is due to an afterthought by the agency.

Senator MOYNIHAN. It is a problem of public management, and the incentive system is not the same as it would be in a private sector where efficiency immediately translates into money.

Mr. SILVERMAN. I would agree with that. I think that that is the principal problem.

Senator MOYNIHAN. So what we want as much as possible is to make these decisions, locate them with the Administrator of GSA, so their performance is what is——

Mr. SILVERMAN. Well, I think that the administrator has the internal forces to carry these out expeditiously without having to prepare a lot of paperwork, bring it to Congress, when space involves a computer center. And we have to define what "major" is. The word "major" is used in H.R. 2790. Perhaps some dollar figure could be placed on that, and then it could be mandated that the administrator follow that internally within his own clearance procedures and audit procedures, rather than burden the committees of Congress with this type of evaluation and add time to an already intolerable process.

Senator MOYNIHAN. That helps us a lot, those two time frames which are very specific.

Mr. SILVERMAN. Basically, that is the extent of our comments. With reference to the other points in the bill, we concur with my

colleague, Mr. Collins, and also with the BOMA written presentation that represents developers in the industry.

Senator MOYNIHAN. Well, we thank you very much, Mr. Silverman, and you are not far away, of course.

Mr. SILVERMAN. Well, I thank you for the opportunity, and I want to assure you that if you have any need for any further information, or if we can assist you on these issues or any others, please feel free to call on us.

Senator MOYNIHAN. Yes, we will. We want to do this.

Mr. Collins, your colleague, has stayed. You could have stayed at the table, sir, but you should know that when Mr. Stafford and I began talking about this, I think that our rental bill was about $400 million. It was not that long ago, and it is now $1.6 billion and going to $2 billion, and that is too much.

On the other hand, there down at OMB—I would like to state this for the record; you may or may not know it, Mr. Silverman and Mr. Collins—the objection to putting the lease-purchase provisions into the law is simply that, while clearly they are the way that we can construct buildings that we need, it also can be argued that it is a good way to construct buildings that you do not need.

I do not want to see 435 Federal office buildings in this country. That is a prudent thing. Neither does Mr. Golden, and so we will try to find some intermediate area.

In the meantime, I would like to thank the industry for helping us. You are the ones who are the most sensitive by definition to market forces and to price efficiency. We by definition are the least sensitive, and we need your help and advice, and we will continue to need a lot of your space.

I think that that will be the end of our hearing for the morning, and with thanks to our guests and to our excellent staff, we will move on. We will be marking up legislation later this month.

Mr. SILVERMAN. Thank you.

[Whereupon, at 11:32 a.m., the subcommittee recessed, to reconvene at the call of the Chair.]

[Statements submitted for the record and the act H.R. 2790 follow:]

STATEMENT BY THE ADMINISTRATOR OF GENERAL SERVICES
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION,
AND INFRASTRUCTURE
U.S. SENATE
MARCH 3, 1988

Mr. Chairman and Members of the Committee:

I am pleased to offer this testimony concerning proposed amendments to legislation affecting the management of the Government's real estate assets.

Background

Last year the Administration proposed changes to public buildings authorizing legislation to increase efficiency and to reduce costs. None of the individual changes represented significant departures from the current statutory framework guiding GSA's activities. Indeed, we believe that the current legislative authorities provide a suitable structure to permit the effective planning, acquisition, and operation of Federal facilities. However, the individual changes that we proposed, taken as a whole, would result in significant management improvements.

The Administration's proposal would:

1. Revise prospectus requirements,

2. Authorize multiyear contracting for building services,

3. Revise the Economy Act to provide greater flexibility for lease alterations,

4. Strengthen protection by eliminating GSA's exclusive jurisdiction over certain facilities,

5. Make permanent our law enforcement authorities related to leased space, and

6. Revise reporting requirements for outleases.

The House has considered the Administration's proposal and passed H.R. 2790, a bill to improve the efficiency and effectiveness of management of public buildings. In general, H.R. 2790 includes most of the changes recommended by the Administration. However, H.R. 2790 adds several provisions which we oppose.

GSA has been furnished a copy of proposed legislation (see Attachment A), which your Subcommittee is considering introducing. The Senate draft proposal contains....many provisions originally included in the Administration bill and also included in the House bill. In general, we believe that the Senate version is an improvement to H.R. 2790, as the Senate bill deletes or modifies many of the House provisions that are objectionable.

With your permission, I would like to summarize the major components of the Senate draft proposal, H.R. 2790, and the Administration's original proposal. It is our intent to work closely with both the House and Senate to produce a bill which the Administration can support.

Prospectus Requirements

The Public Buildings Act of 1959, as amended, requires the submission of a prospectus to the Public Works Committee before an appropriation can be made for a major alteration or acquisition of space. GSA's bill originally proposed that the minimum value necessary before a prospectus is required be raised from $500,000 to $2 million. Section 2 of H.R. 2790 raises the threshold to $1.5 million, a level that is intended to reflect inflation since 1972. The Senate draft proposal also sets the threshold level at $1.5 million. This threshold will cover repair and alteration projects, other capital projects, and leases.

We support an increase in the threshold to improve management flexibility and to provide more timely services, while at the same time maintaining Congressional oversight of major transactions.

The threshold was last raised in 1972; inflation since that time has been over 165 percent. As a result, projects of a much narrower scope now require prospectus review.

To illustrate, in 1972 a threshold of $500,000 required that a lease of approximately 75,000 square feet of office space be submitted to the Public Works Committee for review. As a result of rising rental rates in most parts of the country, annual payments of $500,000 today will obtain approximately 30,000 square feet of office space. The lengthy process for developing, and reviewing lease prospectuses means that we unnecessarily cause hardships to tenants. The situation is exacerbated at this time because many long-term leases are scheduled to expire in the next several years.

Under both H.R. 2790 and the Senate draft proposal, the Administrator of GSA will have the authority to adjust the prospectus threshold to reflect future inflation, as measured by the composite index of construction costs of the Department of Commerce. GSA is required to notify Congress of any such changes.

Certain Restrictions on Leasing Space

Section 3 of H.R. 2790 contains several provisions to limit leasing authority that were not originally proposed by the Administration. The Senate draft proposal contains similar provisions. Specifically, Section 3 of H.R. 2790 requires: (1) advance approval by the Congress of alterations if the cost of an alteration, when added to all other costs, exceeds $1.5 million; and (2) that the Administrator of General Services may not lease space for computer operations; secure or sensitive activities related to national defense or security; offices requiring major structural alterations; or permanent court facilities; except that leases for such activities can occur if justified by GSA to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

The General Services Administration opposes this section as an unnecessary restriction of the Agency's leasing authority.

Requiring formal Committee approval of alterations in lease space will lead to delays and will harm GSA's efforts to meet the program requirements of tenant agencies. Instead, the Administration proposed, and continues to prefer greater flexibility in this area. We originally proposed to remove a restriction of the amount that can be paid for alterations of leased space to 25 percent of the fair market value of the space leased. While this requirement may have once been an important management tool, over the last 50 years other, more effective controls have been instituted to ensure that lease alterations only are performed when they are in the best interests of the Government. More specifically, controls on lease alteration expenditures is accomplished through budget procedures and the financial analysis of the net gain or loss to the Federal Buildings Fund, created by the Public Buildings Act Amendments of 1972, caused by individual buildings. We believe that this legislation should provide greater, not less, flexibility for the executive branch to carry out its leasing program.

With respect to restrictions on leasing certain space, we note that, as a matter of policy, GSA generally avoids leasing space for major computer facilities, secure or sensitive activities related to defense, and judicial requirements.

Nevertheless, the agency often is forced to lease such space when construction or purchase authority is consumed by higher priority projects. Furthermore, for small space assignments such as bankruptcy courts in remote areas, construction or purchase is often impractical. We, therefore, urge the Senate to consider deleting Section 3 of H.R. 2790 and Section 3 of the Senate draft proposal.

However, we note that improvements have been made in the Senate version which would only require prospectus approval for lease alterations if the cost for each alteration exceeds $1.5 million. This provision eliminates the objectionable feature in the House bill of requiring alteration costs under lease projects to be accumulated and requiring that, after $1.5 million of alteration costs for a lease had been incurred, every alteration project, no matter what its cost, be submitted to Congress for approval. We understand that the provision expanding the prospectus to lease alterations is an attempt to address a concern that oversight for the area of leasing alteration be made the same as for ownership. A further improvement in the Senate version is that lease restrictions would only apply to leases exceeding $1.5 million. Therefore, notwithstanding our general concerns with the restrictions on leasing authority, should Congress enact legislation in this area, we strongly urge that the Senate version be enacted.

Time Financing

Section 5 of H.R. 2790 authorizes the Administrator of GSA to issue debt instruments with terms up to 30 years for purchase by the Secretary of the Treasury for construction and acquisition of Federal buildings. Prior to its consideration in the House of Representatives, the Administration issued a Statement of Administration policy in strong opposition to Section 5 of H.R. 2790. The Administration further indicated that if such a provision remained in the legislation as finally enacted, the President's senior advisors would recommend that the legislation be vetoed. We note that the Senate draft proposal does not contain a provision similar to the one in the House bill, and would urge any conference on this legislation to delete the House provision.

Special Rules for Leased Buildings

Proposed section 20(a) in Section 5 of H.R. 2790 provides that, notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall not make any agreement which will result in the construction of any building which is to be constructed for

lease to, and for predominant use by, the United States, until the Administrator has established detailed specification requirements for such building by regulation. Proposed section 20(b) further provides that the Administrator may procure the construction of any such building only by publicly soliciting competitive bids.

We strongly oppose these proposed House amendments, and prefer section 5 of the Senate draft proposal which removes the particularly burdensome aspects of the above requirements. More specifically, in contrast to the House, section 5 of the Senate draft proposal provides in proposed section 20(a) that the Administrator shall establish "specifications for such building." Furthermore, proposed section 20(b) states that the Administrator may procure the construction of any such building only by the use of competitive procedures required by the Competition in Contracting Act.

As a matter of policy, GSA opposes the trend towards further restrictions with respect to leased buildings since, in order to operate an efficient and viable operation, GSA needs more, not less flexibility.

These proposed restrictions in H.R. 2790 would be harmful in two respects. First, GSA currently solicits lease constructions based on performance specifications and quality criteria. This practice permits GSA to benefit from the innovations developed through the private sector. Detailed specifications frequently result in highly prescribed design and construction practices, thereby preventing exploration of lower cost alternatives to meet GSA's needs. In fact, it is not uncommon for GSA to receive, in response to a solicitation for leased space, offers from both owners of existing buildings and developers proposing to construct a new facility to meet the requirements of the solicitation. GSA believes that the House of Representatives restrictions mandating more detailed specifications for the offeror proposing to construct a building would increase costs and impede the receipt of such innovative initiatives, thereby creating unequal competition.

Second, GSA strongly believes that the regulatory process is the wrong vehicle for leasing reform. Any regulatory requirement would be time consuming and result in significant delays. Further, any regulatory requirement would hinder GSA's ability to change procedures when new information was received from the private sector indicating a better method of operations.

The proposed Section 20(b) in H.R. 2790 provides that the Administrator may procure the construction of any such building only by publicly soliciting competitive bids. GSA views this approach as a direct contradiction with the Competition in Contracting Act of 1984, which already has adequate provisions to govern such procurements.

This provision is also contrary to GSA's normal practices over the last several years and the new initiatives we are undertaking in the leasing of space. A major component of the Agency's quality work environment initiative has been the leasing of space while taking into account such factors besides price as the location of the building, the availability of public transportation, and the existence of certain amenities such as day care facilities and physical fitness centers. Moreover, these negotiations are competitive and meet existing legal requirements for competition. Hence, H.R. 2790, which would return GSA to a situation of formal advertising, emphasizing minimum needs at the lowest price, is counterproductive and contradicts the basic direction of the Agency over the last several years.

The Senate draft proposal removes the requirements that would result in detailed specifications, elimination of negotiated procurements, and regulations in this area. Hence, the Administration prefers the relevant section of the Senate draft proposal and has no objections to its enactment.

Retrocession Authority and the Exercise of Federal Authorities in Leased Space

The Administration's original bill, and Section 6 of H.R. 2790 provides GSA with the authority to retrocede exclusive jurisdiction to State governments and other entities where full-time Federal law enforcement presence is not required. Section 5 of the Senate draft proposal contains similar authority, but clarifies that only "legislative" jurisdiction is involved.

This authority will permit the Federal Government to enter into agreements with certain State and local jurisdictions concerning the provision of law enforcement services, while enabling GSA to concentrate its resources on those high risk areas with significant Federal populations. Relinquishment of jurisdiction would take effect only when the State or other appropriate governmental unit agrees to the transfer. This would permit local law enforcement agencies to enter and make arrests on these properties. Similar authority has already been granted by the Congress to the Secretaries of the Military Departments, the Secretary of Transportation, the Administrator of Veterans Affairs, and the Secretary of the Interior.

Both the House and Senate legislation also will make permanent the authority provided in annual appropriations acts for GSA to provide security and law enforcement services in areas for which the relevant State government or other legal entity has not ceded jurisdiction to the Federal Government. Article I, Section 8, Clause 17, of the Constitution of the United States provides in legal effect that the Federal Government shall have exclusive jurisdiction over the District of Columbia, "and like authority over all places acquired by the Government, with the consent of the states involved, for Federal works." GSA could not perform law enforcement services in certain leased and Government-owned space absent other legislative authority. Hence, we support making permanent this authority, thereby removing the need for annual appropriation language.

Compliance With Certain Building Codes

The Senate draft proposal does not contain the equivalent of section 7 H.R. 2790. Section 7 of H.R. 2790 would require compliance with National Building Codes and State Zoning laws to the maximum extent feasible for each building constructed or altered by a Federal agency.

Although GSA has long supported the principle of cooperation with local officials, GSA believes that the restrictive language in H.R. 2790, requiring compliance to the maximum extent feasible, could cause unnecessary delays to Federal projects. More specifically, since the language in the House of Representatives bill requires "compliance" with local requirements, lengthy discussions between Federal and local officials could occur as to whether a particular project had reached "maximum feasible compliance." Furthermore, Section 7 in H.R. 2790 does not distinguish between the construction of a multimillion dollar Federal construction project and a minor alteration of a Federal building, since the House language would apply to "each building constructed or altered." We agree that the provision is unnecessary and should not be enacted into law.

That summarizes the major provisions of the public buildings amendments. There are two provisions that were part of the Administration's original proposal but not included in either the House or Senate bills. One provision concerns authorization for multiyear contracting for building services, and the other provision concerns revisions to the reporting requirements for outleases. The House of Representatives deleted both provisions prior to passage of H.R. 2790. GSA is currently working with the Committee on Government Operations of the House of Representatives and the Committee of Governmental Affairs of the Senate, which have jurisdiction over these provisions, with a view

towards their enactment. Accordingly, we request the Senate Environment and Public Works Committee not reinsert either provision in the Senate draft proposal.

In summary, we believe that with the changes outlined in this testimony, the Senate draft proposal, when combined with the policy and management initiatives that the Agency is pursuing, will produce a buildings management program that is effective and efficient, satisfying the taxpayers' right to capable management. We intend to work with both the House and Senate to produce a bill that is acceptable to all parties.

That concludes my opening statement. I will be happy to answer any questions the Subcommittee may have.

Attachment

DRAFT

100th CONGRESS
2nd Session

S.

IN THE SENATE OF THE UNITED STATES

MR. MOYNIHAN introduced the following bill; which was raad twice and referred to the Committee on Environment and Public Works

---

A BILL

To improve the efficiency and effectiveness of management of public buildings

---

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Buildings Amendments of 1988".

SEC. 2. INCREASED THRESHOLD FOR APPROVAL PROCESS.

Sections 4(b) and 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 603(b) and 606(a)) are amended by striking out "$500,000" each place it appears and inserting in lieu thereof "$1,500,000".

Attachment A

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SEC. 3. LIMITATIONS ON LEASING AUTHORITY

(a) LIMITATIONS ON APPROPRIATIONS FOR LEASING CERTAIN SPACE.--Section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)) is amended by inserting after the second sentence the following new sentence: "No appropriation shall be made to alter any building, or part thereof, which is under lease by the United States for use for a public purpose if the cost of such alteration exceeds $1,500,000 unless such alteration has been approved by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

(b) LIMITATION ON LEASING CERTAIN SPACE.--Section 7 of such Act (40 U.S.C. 06) is amended by adding at the end thereof the following new subsections:

"(e) LIMITATION ON LEASING CERTAIN SPACE.--Notwithstanding any other rovision of this Act, with respect to any lease subject to section 7 of the ublic Buildings Act of 1959 (40 U.S.C. 606), the Administrator may not lease ny space to accommodate--

"(1) major computer operations;

"(2) secure or sensitive activities related to the national defense or security, except in any case in which it would be inappropriate to locate such activities in a public building or other facility identified with the United States Government;

"(3) offices which would require major alterations in the structure or mechanical system of the building to be leased; or

"(4) a permanent courtroom, judicial chamber, or administrative office for any United States court;

xcept that the Administrator may lease such space if the Administrator first letermines, for reasons set forth in writing, that leasing such space is

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necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 4. DOLLAR AMOUNT ADJUSTMENT.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is further amended by adding at the end the following new subsection:

"(g) DOLLAR AMOUNT ADJUSTMENT.--Any dollar amount referred to in this section and section 4(b) of this Act may be adjusted by the Administrator annually to reflect a percentage increase or decrease in construction costs during the preceding calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any such adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 5. STATE ADMINISTRATION; SPECIAL RULES FOR LEASED BUILDINGS.

The Public Buildings Act of 1959 (40 U.S.C. 601-616) is amended by adding at the end thereof the following new sections:

"SEC. 19. STATE ADMINISTRATION.

"(a) Notwithstanding any other provision of law, the Administrator may, whenever the Administrator considers it desirable, relinquish to a State, or to a commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over land or interests under

the control of the Administrator in such State, commonwealth, territory, or possession. Relinquishment of legislative jurisdiction under this section may be accomplished by filing with the Governor (or if none exists, with the chief executive officer) of such State, commonwealth, territory, or possession a notice of relinquishment to take effect upon acceptance thereof, or in such other manner as may be prescribed by the laws of the State, commonwealth, territory, or possession where such lands are situated. The authority granted by this section is in addition to and not instead of that granted by any other provision of law. Nothing herein shall be construed to authorize the Administrator to dispose of any land or interest in property to a State, commonwealth, territory or possession.".

"SEC. 20. SPECIAL RULES FOR LEASED BUILDINGS.

"(a) SPECIFICATIONS.--Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall hot make any agreement or undertake any commitment which will result in the construction of any building which is to be constructed for lease to, and for predominant use by, the United States until the Administrator has established specifications for such building.

"(b) COMPETITIVE BIDS.--The Administrator may acquire a leasehold interest in any building which is being constructed for lease to, and for predominant use by, the United States only by the use of competitive procedures required by section 2711 of the Competition in Contracting Act of 1984, amending section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

"(c) INSPECTIONS.--The Administrator shall inspect every building to be constructed for lease to, and for predominant use by, the United States during the construction of such building in order to determine that the specifications established for such building are complied with.

"(d) ENFORCEMENT.--

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"(1) POST-CONSTRUCTION EVALUATION.--Upon completion of a building constructed for lease to, and for predominant use by, the United States, the Administrator shall evaluate such building for the purpose of determining the extent, if any, of failure to comply with the specifications referred to in this section.

"(2) CONTRACT CLAUSE.--The Administrator shall ensure that any contract entered into for a building described in paragraph (1) shall contain provisions permitting a reduction of rent during any period when such building is not in compliance with such specifications.".

SEC. 6. LIMITATION ON MAXIMUM RENTAL RATE.

Section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a) is repealed.

SEC. 7. PROTECTION OF FEDERAL PROPERTY.

(a) REFERENCE TO GSA.--The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318-318d) is amended--

(1) by striking out "Federal Works Agency" each place it appears and inserting in lieu thereof "General Services Administration"; and

(2) by striking out "Federal Works Administrator" each place it appears and inserting in lieu thereof "Administrator of General Services".

(b) INCLUSION OF LEASED PROPERTY.--Section 1 of such Act is amended to read as follows:

"SECTION 1. SPECIAL POLICE.

"(a) APPOINTMENT.--The Administrator of General Services, or officials of

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the General Services Administration duly authorized by the Administrator, may appoint uniformed guards of such Administration as special policemen without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator.

"(b) POWERS.--Special policemen appointed under this section shall have the same powers as sheriffs and constables upon such property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations promulgated by the Administrator or such duly authorized officials of the Administration for the property under their jurisdiction; except that the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.".

(c) CONFORMING AMENDMENTS.--

(1) SECTION 2.--Section 2 of such Act is amended by striking out "Federal property" each place it appears and inserting in lieu thereof "property".

(2) SECTION 3.--Section 3 of such Act is amended by striking out "and over which the United States has acquired exclusive or concurrent criminal jurisdiction".

SEC. 8. TECHNICAL AMENDMENT.

The Act entitled "An Act to designate the United States Post Office and Courthouse in Pendleton, Oregon, as the 'John F. Kilkenny United States Post Office and Courthouse'" (Public Law 98-492; 98 Stat. 2271) is amended by striking out "Dorian" and inserting in lieu thereof "Dorion".

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STATEMENT OF THE INSTITUTE OF REAL ESTATE MANAGEMENT
OF THE NATIONAL ASSOCIATION OF REALTORS®

TO: THE SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE OF THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ON: PUBLIC BUILDINGS AMENDMENTS OF 1987, H.R. 2790

BY: DOUGLAS F. COLLINS, CPM®, PRESIDENT, INSTITUTE OF REAL ESTATE MANAGEMENT

DATE: MARCH 3, 1988

STATEMENT OF **DOUGLAS F. COLLINS** REPRESENTING THE INSTITUTE OF REAL ESTATE MANAGEMENT AND THE NATIONAL ASSOCIATION OF REALTORS®

Mr. Collins Mr. Chairman, my name is Douglas Collins. I am president of Tooman Collins Asscciates, Inc., headquartered in Oklahoma. The firm provides commercial and residential property management, real estate consulting, office building leasing and marketing, and corporate tenant relocation services in Tulsa and Oklahoma City and the surrounding region. Today, I am pleased to represent the Institute of Real Estate Management (IREM) of the NATIONAL ASSOCIATION OF REALTORS®.

I am a member, a CERTIFIED PROPERTY MANAGER, of IREM, a professional association. I also serve as the 1988 President of IREM. On behalf of the Institute, I want to thank you, Mr. Chairman, and the subcommittee members for the opportunity to present our views on H.R. 2790, Public Buildings Amendments of 1987.

Briefly, Mr. Chairman, before I provide you with our comments, I would like to offer you some background on the Institute of Real Estate Management. Since 1933, when it was founded, the Institute of Real Estate Management has been internationally recognized as a source for professional property management education, experience, certification and ethical standards. Today, the Institute represents 8,240 members--CERTIFIED PROPERTY MANAGERS®--who are responsible for the management of $911.5 billion worth of the Nation's

real estate assets. CERTIFIED PROPERTY MANAGERS® manage all types of income producing property across the United States and Canada. The Institute currently has 4,334 CERTIFIED PROPERTY MANAGERS®--52.6 percent of the membership--managing approximately 25 percent of the Nation's commercial office buildings for a total of 3.6 billion square feet under management.

IREM has been concerned about legislative attempts to greatly reduce the amount of space the federal government leases, from the private sector, through the General Services Administration (GSA). We are concerned that a radical decrease in federal leasing will disrupt the private commercial office space market because much of the space is under long-term leases at favorable rates while additional space is readily available. Removing a great deal of government leased space from the real estate market, would disrupt the existing marketplace to such a degree that financially stressed owners will have no alternative but to face foreclosure or deed properties to their lenders.

In a related manner, we are also concerned about GSA expanding its ability to lease out its space for commercial or retail use. Through outleasing, the GSA is in direct competition with the private market in leasing to retail and commercial businesses, and GSA has the distinct advantage of not paying any real estate taxes to support local government services.

Nevertheless, the GSA has long been trying to embark on an expansive program of direct construction of federal

buildings, but have found their way continually blocked because essentially it costs more in a single fiscal year to construct a new building than it does to lease space from the private sector.

Mr. Chairman, the United States is experiencing some of the highest commercial office building vacancy rates in the history of this country. Coldwell Banker 1987 data showed downtown national average office building vacancy rates of 16.2% and suburban rates of 23.0%. (See appendix.) The Office Network data shows a combined downtown and suburban office building vacancy rate of 19.0% in 1987. These figures are virtually the highest vacancy rates experienced in the last decade. Some specific vacancy rates for 1987 are Atlanta--17.5%, Chicago--15.7%, Dallas--27.7%, Denver--27.1%, and Tulsa--30.1%. These overbuilt situations are due to the availability of mortgage money from financial institutions and their willingness to become owners of new office buildings and the tax advantages that were in place prior to the Tax Reform Act of 1986. Whatever the reason for this new office building construction, the reality is that the GSA and other lessees have tremendous opportunities to negotiate extremely favorable leases and attractive tenant improvement (TI) terms.

As an example, our firm currently has a proposal for a three to five year lease with a government agency. The building is a Class A building and pro forma'ed at a rent of $14.00 per square foot. We have proposed $9.40 per square

foot and that has gotten us into the finals with three other buildings. Tenant improvements on this deal are expected to run between $7 and $8 per square foot and will be entirely the burden of the property owner. There will be no capital improvement by taxpayer dollars. These terms are relatively true across the nation as every market is overbuilt.

Our staff recently conducted a survey of members who lease space to GSA in Washington, D.C., Atlanta, and Denver.

Washington, D.C., Atlanta, and Denver are the three U.S. cities with the most GSA-leased space. It was found that of those firms surveyed in these three cities, all give more favorable rental rates as the amount of rentable square feet leased increases, in some cases, 50,000 square feet or more.

According to one firm in Denver, currently the GSA on average receives an effective rent of $10 per square foot, while the private sector receives a $12 per square foot rental rate--a 20 percent difference. A spokesperson for the firm stated the GSA receives more favorable rates because "they are stable tenants who lease large areas of space on a long-term basis. Due to the current market conditions in the Denver area we could not afford to lose such tenants."

We are in the process of renegotiating a lease with a government agency in Tulsa which they have held since 1983. At the time when they negotiated the original three-year lease of 1,200 square feet the rental rate was $15.00 per

square foot. The lease is now in its second renegotiation and the current rental rate is $9.57 per square foot. In the meantime, they have expanded to 2,700 square feet of space so an even larger share is at the lower rate. The net result is that a $15.00 per square foot rate in 1983 has been renegotiated to less than a $10.00 per square foot rate today.

From 1981 to the present, office leasing rates on a national average square foot basis have plateaued out providing little or no increases due mainly to the oversupply of office space. (See appendix.)

The point I am making is that there are situations where the government may wish to build a new office building or purchase an existing building, but because unoccupied commercial space is plentiful, long-term favorable leases for the tenant are readily available due to this oversupply.

Being cognizant of the significant oversupply of office space that exists in many areas of the country; and consequently the opportunity for prospective tenants to obtain favorable leases, members of the Institute cannot support the time financing provisions of H.R. 2790, which would provide a mechanism making low cost financing available to the GSA for building construction. This is clearly an example of the GSA having an unfair advantage over the private sector in both building and leasing (GSA outleasing).

The administration and particularly the Office of Management and Budget (OMB) have, for some time, been advocating the

increase of privatization relative to our Federal obligations. However, the availability of a time financing mechanism for the GSA counteracts that goal, and opens the door for more government spending and more government ownership.

Time financing, or allowing the GSA to borrow and spend without including such costs in that particular year's budget, is likely to result in an over-abundance of federally owned buildings. The OMB has stated that this will significantly impact their basic budgetary authority. Additionally, the government will need to pay operating costs for office buildings during lease-up or during times when vacancies occur on outleased portions of the building. In other words, efforts to maintain reasonable controls over government budget spending would be in vain.

The Administration says that enactment of H.R. 2790, specifically time financing, would in fact, not result in budgetary savings, as some supporters have claimed. An increase in the number of federal buildings could actually result in additional costs to the government by increasing ownership responsibilities.

At this point in our Nation's economic history, while we are so concerned about controlling the deficit, it is difficult to understand why the Federal Government would support initiatives that promote the expenditure of billions of dollars.

Mr. Chairman, I would like to discuss an issue which is not in H.R. 2790 but may be an issue your subcommittee

will discuss in the future. We are concerned about GSA expanding its ability to lease out the space it already owns for commercial or retail use. Through outleasing, the GSA is in direct competition with the private market in leasing to businesses, with the added advantage of not paying any taxes to support local government services. With the vacancy rate nationwide as high as I have stated in private commercial space, it will be detrimental to the private market if GSA is allowed to pursue an aggressive campaign to lease its tax-free space.

H.R. 2790 contains a provision which states that the prospectus thresholds for repair and alteration and other capital projects, as well as leases and purchased buildings will be raised from $500,000 to $1.5 million. The Institute agrees with these changes based on the fact that inflation has increased 160 percent since these numbers were last adjusted thus the change from $500,000 to $1.5 million is more realistic.

The bill allows the GSA Administrator to adjust the prospectus threshold for future inflation based on the increases or decreases in construction costs during the preceding calendar year, thus in essence giving the GSA unrestricted authority to adjust the prospectus threshold. Even though we are sensitive to the need for administrative expediency, the Institute of Real Estate Management opposes adjusting the leasing threshold with the use of construction costs. We would like to point out that construction costs which

H.R. 2790 proposes using to reflect future inflation do not accurately measure adjustments in the rental market. The construction cost adjustment cannot be used to single out the inflationary effects on commercial rents. Instead, if Congress does allow GSA to adjust the threshold for leases, we recommend that they use a more accurate measure, like the average national commercial rental rate. An example of an average national commercial rental rate figure is published by The Office Network, Inc. From 1981 to 1987 average national rates based on $/square foot were as follows:

1981	$19.61
1982	$18.52
1983	$19.36
1984	$21.45
1985	$21.14
1986	$21.66
1987	$19.65

As shown by this data, rates have plateaued for the last seven years.

In addition, the Institute of Real Estate Management is opposed to the multiyear contracts provision contained in H.R. 2790 and believes that service/equipment contracting should be re-calculated on an annual basis when budgeting the property's yearly costs. Evidence indicates that while, seemingly "good deals" can be cut, the level of service or product tends to deteriorate over the term of the contractual period. The Institute believes shorter term (one to three years) are more cost effective.

The typical subcontractor who bids on a five-year grounds maintenance contract, for example, must project costs for

this time period and in order to do so must make liberal estimates of costs and inflation factors, specifically in the third, fourth, and fifth years of the contract. It is human nature and typical business for the bidder to make certain these costs are adequately covered in order to protect the supplier from underestimating his or her own overhead. This results in a tendency to overestimate the cost of contracts over longer term periods such as the five year period which is contained in H.R. 2790. Even though five year contracts would simplify and reduce the number of negotiations GSA would have to perform, the cost of these contracts would exceed the cumulative cost of shorter term contracts (one to three years). To reiterate, this procedure of bidding long term contracts (five years) does not provide service at the lowest price due to the cushion contractors typically place in their bids.

In addition, long term contracts may not be good business practices because new technologies which lower costs may occur within a five year contract period and the GSA may not be able to take advantage of these technologies, for example, new equipment, within a firm five year contract. Also, the owner or building manager may decide to reduce the frequency of service, for example, lobby cleaning, and therefore reduce the cost of operations, however with a five year contract, the cost of services would be committed for the life of the contract and therefore pre-empt the savings. In addition, due to tenants needs, operation specifications

may change therefore reducing a service and consequently the cost could be lowered. Again, with a five year contract, costs are set for too long of a duration while a one to three year contract allows more flexibility and subsequent reduction in expenses due to a change in specifications.

We believe that the GSA must be accountable for its expenditures and as such must maintain a level of cost-consciousness. It is unlikely that any private-sector property manager/broker would have carte blanche in negotiations of $1.5 million dollars, without some system of ultimate authority. Under this pretense we cannot support the repeal of the 25 percent (of fair market value) limitation on the agency's discretion in spending for alterations for existing leased space as provided in H.R. 2790. It looks like the 25 percent requirement is archaic, but some mandatory control is necessary to protect the fiscal integrity of regional administrators' duties.

Finally, the provision relating to GSA providing security and/or police protection, when necessary, poses no apparent concern for the Institute. However, once it is determined that such protection will be provided, it must be clearly stated as to who (GSA or local jurisdiction) will be responsible for designated areas. Also, GSA should not expend unnecessary funds for policing areas that are already under police/security supervision.

Mr. Chairman, I want to once again thank you for giving the Institute this opportunity. The Institute of Real Estate Management and the National Association of Realtors look forward to working with you and your staff in formulating policy on these issues. Thank you. I will be pleased to answer any questions you may have.

APPENDIX

NATIONAL RENTAL RATES AND ANNUAL RENTAL RATES

Rental rates have been steady over the last five years. Vacancy rates have leveled off over the past three years, although they have been extemely high.

Table 1. Annual Rate ($) per Square Foot, Existing Buildings-Weighted Average

Year	Rental Rate
1977	$10.51
1978	11.37
1979	13.03
1980	14.99
1981	19.40
1982	19.52
1983	19.91
1984	21.45
1985	21.14
1986	19.95
1987	N/A

Source: Office Network

Table 2. National Vacancy Rates (%)--Office Buildings

	Coldwell Banker		Office Network
Year	Downtown	Suburban	
1977	N/A	N/A	7.6
1978	5.6	N/A	6.4
1979	3.6	N/A	4.7
1980	4.1	N/A	5.0
1981	4.8	N/A	5.1
1982	10.3	N/A	13.0
1983	12.4	18.7	15.2
1984	14.7	18.2	16.4
1985	16.5	22.0	16.9
1986	16.4	23.8	18.6
1987	16.2	23.0	19.0

Sources: Coldwell Banker and Office Network

Table 3. Metropolitan Area Vacancy Rates (1983 - 1987)

City	Vacancy Rate December of: 1983	1984	1985	1986	1987
National	16.2	17.2	20.1	21.5	20.7
*Cities with GSA-Leased Space:					
Atlanta	10.3	12.9	18.6	18.3	17.5
Chicago	12.8	12.5	14.5	17.3	15.7
Dallas	23.2	20.7	24.3	27.7	27.7
Denver	26.4	25.1	26.1	26.5	27.1
Los Angeles	15.9	16.7	16.9	17.3	16.8
Miami	11.4	16.3	20.3	21.1	23.4
New York City	----	----	----	----	----
Philadelphia	9.7	11.2	14.5	14.4	14.1
San Francisco	10.6	13.5	16.6	19.4	16.3
Washington, D.C.	10.1	11.1	14.0	14.8	15.1
**Other Cities:					
Austin	----	----	----	35.2	39.5
Detroit	----	----	----	----	----
Fort Lauderdale	18.8	21.5	29.4	29.1	29.6
Fort Worth/ Arlington	----	----	----	28.5	25.7
Houston	29.1	27.6	28.2	29.9	31.8
Las Vegas	----	----	----	----	22.6
Mid-New Jersey	----	----	----	39.0	38.3
Minneapolis-St. Paul	13.3	13.4	17.7	17.4	20.1
New Orleans	22.2	19.5	22.1	25.7	26.2
Oakland-East Bay	----	19.1	24.0	28.3	25.0
Oklahoma City	17.1	22.2	22.3	26.2	27.3
Orange County	17.3	13.1	19.3	23.3	21.3
Orlando	----	21.4	24.5	26.3	22.5
Phoenix	20.6	21.3	25.4	26.4	21.7
Salt Lake City	----	----	----	24.3	22.0
San Antonio	----	22.9	24.2	29.7	29.1
San Diego	21.1	18.2	22.0	23.6	23.0
San Jose	14.8	16.1	23.9	27.0	24.9
Tampa	16.8	21.1	27.0	22.8	21.0
Tucson	----	----	----	28.4	26.3

*Ten U.S. cities with the most GSA-leased space.
**Other U.S. cities with December 1987 vacancy rate above national rate
----Indicates no data kept by Coldwell Banker

Source: Office Building Real Estate Data, Coldwell Banker, 1987.
Metro data was not collected prior to 1983.

Table 4. Downtown Area Vacancy Rates (1981 - 1987)

City	Vacancy Rate December of: 1981	1982	1983	1984	1985	1986	1987*
National	4.8	10.3	12.4	14.7	16.5	16.4	16.2
**Cities with GSA-Leased Space:							
Atlanta	17.7	19.4	16.0	15.5	12.8	14.9	18.7
Chicago	4.9	8.3	11.3	10.4	10.6	11.6	11.6
Dallas	4.8	10.0	14.6	17.2	17.5	21.6	24.6
Denver	0.1	8.3	23.0	23.7	26.0	29.7	30.3
Los Angeles	0.8	9.5	12.3	11.8	18.2	15.0	14.0
Manhattan, Downtown	1.4	3.3	3.7	8.3	11.1	9.9	10.5
Manhattan, Midtown	2.4	4.3	7.2	6.9	6.9	8.7	7.6
Miami	4.8	7.2	15.5	17.2	19.5	22.9	19.1
Philadelphia	6.4	9.1	8.6	9.0	10.2	9.3	9.5
San Francisco	0.4	5.7	5.9	10.1	13.4	18.1	15.0
Washington, D.C.	2.7	9.6	11.7	10.4	9.7	9.9	10.6
***Other Cities:							
Austin	----	----	----	----	----	29.1	35.8
Detroit	----	----	----	----	----	----	----
Fort Lauderdale	----	----	----	----	----	----	----
Fort Worth	----	----	----	----	----	21.3	20.9
Houston	1.3	5.8	14.6	20.9	20.2	20.0	21.9
Las Vegas	----	----	----	----	----	----	23.0
Mid-New Jersey	----	----	----	----	----	----	----
Minneapolis-St. Paul	5.1	9.7	9.6	11.5	13.9	12.6	17.2
New Orleans	----	7.4	20.9	18.7	23.1	25.0	27.0
Oakland-East Bay	----	----	----	18.0	24.7	19.1	17.5
Oklahoma City	3.3	9.5	9.1	25.0	23.7	26.8	33.3
Orange County	----	----	----	----	----	----	----
Orlando	----	----	----	17.7	18.9	17.3	14.7
Phoenix	7.5	11.0	15.3	21.7	18.8	18.5	18.5
Salt Lake City	----	----	----	----	----	23.6	22.3
San Antonio	----	----	---	23.2	22.6	21.4	21.7
San Diego	3.7	27.3	21.3	22.2	23.4	17.0	14.0
San Jose	----	12.3	10.2	14.7	22.2	18.9	22.4
Tampa	18.2	13.7	11.2	8.5	25.9	14.5	13.9
Tucson	----	----	----	----	----	21.2	22.5

*September of 1987.
**Ten U.S. cities with the most GSA-leased space.
***Other U.S. cities with 12/87 vacancy rate above national rate.
----Indicates no data kept by Coldwell Banker

Source: Office Bulding Real Estate Data, Coldwell Banker, 1987.

The Charles E. Smith Companies

1755 JEFFERSON DAVIS HIGHWAY CRYSTAL CITY ARLINGTON VIRGINIA 22202 / (703) 92 / 8500

March 3, 1988

Senate Hart Building
Room 505
Washington, D.C. 20510

The Honorable Daniel Patrick Moynihan
The Subcommittee on Water Resources,
Transportation and Infrastructure of the
Senate Committee on Environment and Public Works

RE: HR 2790

Dear Senator Moynihan:

We appreciate the opportunity to offer testimony on the Public Buildings Amendments of 1987. We are proud to be the major provider of office space to the Federal Government in the Washington Metropolitan Area and hope the following comments will be helpful to the Subcommittee in its deliberations on HR 2790.

Prior to giving those comments we would like to give a brief overview of the Charles E. Smith Companies and the role it plays in the National Capitol Region.

The Charles E. Smith Companies have been engaged in the development, construction, leasing and management of commercial and residential properties in the Washington Metropolitan area since 1946. We have built and manage over 15,000,000 square feet of office space, 1,000,000 square feet of retail space, 14,000 apartments, 7,000 condominiums and presently have under construction 2,000,000 square feet of office space with plans to develop an additional 15,000,000 square feet of commercial space in the next ten years. We employ over 1,900 people in construction, management and on-site services.

In the combined role of owners, builders, leasers and managers, the Companies have maintained a proprietary interest in it's diverse operations and have established a substantial in-house capability. The combined skills and experience of more than 1,900 employees are dedicated to creating the finest working and living environments possible. Our employees are of the highest professional calibre and are committed to perpetuating our reputation as the area's premier developer, owner and manager of commercial real estate and the major provider of quality first class office space to the Federal Government.

The Charles E. Smith Companies

Our comments on HR 2790 are as follows:

SECTION 2. - INCREASED THRESHOLD FOR APPROVAL PROCESS

We support this section increasing the Administrator's authority to lease or alter space up to $1,500,000. This will enable Federal Agencies with space requirements within this leasing threshold to acquire such space in an expeditious manner and enable Lessors to lease vacant space without prolonged administrative delays (see attachment). If the subject space is already improved and meets the Agencies requirements, the space may be leased in its "as is" condition which can enable the Agency to occupy such space within a few days after the lease is awarded.

SECTION 3. - LIMITATIONS ON LEASING AUTHORITY

We oppose the limitations imposed on the Administrator contained in this section. We do not oppose the concept that the Administrator should first attempt to locate the identified space in public buildings when the space requires major special alterations. The Government should repose confidence in the Administrator to carry out such responsibility before accommodating such a space requirement in a privately owned building. The General Services Administration has sufficient beaurocratic oversight safeguards built into its own internal structure, i.e., audit, regional clearance procedures, central clearance division, to assure that this requirement has been met before awarding such a lease in a privately owned building.

Our major objection is the additional time that this would add to an already intolerable time requirement to solicit, award the lease and deliver space for occupancy to the Federal Government for a major space requirement (over 40,000 square feet) which almost always contains special facilities mentioned in Section 3 of HR 2790.

Under the present system it takes GSA approximately 3.5 months to award a lease after issuing the Solicitation for Offers. It then takes an average of about 11 months to deliver the space to the Federal Agency (see attachment). Therefore, it takes a total of 14.5 months on the average to deliver space to the Federal Government after the submission of the initial offer as compared to 3.5 months to deliver space to the private business community.

The Charles E. Smith Companies

From the Agencies' perspective it takes an additional 2 months for the GSA to advertise the space requirement and prepare the SFO so the Agency may have to wait 16.5 months to occupy space after it initially identified its need for the additional space. To add additional time for Congressional Approval under Section 3, in our judgment, will further discourage private developers and lessors from leasing space to the Federal Government.

Thank you for your time and consideration of the above comments and for affording me the opportunity to give testimony on this bill.

Sincerely,

CHARLES E. SMITH MANAGEMENT, INC.

Ralph P. Silverman
Vice President & Chief Counsel
Commercial Leasing Division

Attachment

PLANS AND CONSTRUCTION SCHEDULE

Description of Each Phase	Time Frame after Lease Award and Responsible Party
1. Block Plans and Preliminary Plan showing design intent of each user group.	1. Government shall deliver such "approved" plans to lessor within four (4) weeks of Lease Award.
2. Architectural and Engineering Working Drawings plus cost estimate if plans include above standard work requiring pricing.	2. Lessor shall deliver to Government within four (4) weeks after Government's compliance with step one above.
3. (a) Review and Approval of Working Drawings and issuance to Lessor of written notice to proceed with Standard Construction Work ("Award Letter")	3. (a) Government shall comply within two (2) weeks after Lessor's compliance with step two above.
(b) Review and Approval of Working Drawings and final negotiations and clearance of Cost Estimate when above standard work required and issuance to Lessor of written notice to proceed with both standard and above standard construction work. ("Award Letter")	(b) Government shall complete this step not later than the number of weeks noted below after receipt of working drawings and cost estimate from Lessor. (1) Cost from $100,000 to $300,000 . . . . . 5 weeks (2) Cost from $300,001 to $500,000 . . . . . 7 weeks (3) Cost over $500,000 . . . . . 25 weeks
4. Buildout of Leased Space	4. Lessor shall complete this work within eight (8) weeks of Government's issuance of "Award Letter".
5. Acceptance of space improvements and Leased Space for occupancy.	5. Government shall inspect and issue letter accepting space for occupancy (if buildout complies with approved working drawings) within one (1) week after Lessor notifies Government of such completion and the letter shall set the rent start date in accordance with the Guaranteed Rent Commencement Date in the Lease unless Lessor has caused delay in such date in steps 2 and/or 4 above in which event the Rent Commencement Date shall be put off one (1) day for each day of such delay caused by Lessor.
6. Payment for Above Building Standard Work.	6. Government shall make such payment within thirty (30) days of the rent commencement date.

WRITTEN TESTIMONY TO THE SUBCOMMITTEE ON
WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE
OF THE SENATE COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

H.R. 2790, THE PUBLIC BUILDINGS AMENDMENTS OF 1987

PROVIDED BY
THE BUILDING OWNERS AND MANAGERS ASSOCIATION INTERNATIONAL
1250 EYE STREET, N.W. SUITE 200
WASHINGTON, DC 20005

MARCH 3, 1988

WRITTEN TESTIMONY OF

THE BUILDING OWNERS AND MANAGERS ASSOCIATION INTERNATIONAL

I. INTRODUCTION

The Building Owners and Managers Association International (BOMA) would like to sincerely thank Senator Moynihan and the Subcommittee for an invitation to submit testimony on H.R. 2790, the "Public Buildings Amendments of 1987". While the Association regrets that scheduling conflicts will prevent one of BOMA's National Officers from testifying before the Subcommittee today, we are grateful for the opportunity to make known the views of building owners and managers on the important piece of legislation which is now under consideration by this Subcommittee.

Before outlining BOMA's comments on this pending legislation, we feel it is important to provide the members of the Subcommittee with some background information on the Building Owners and Managers Association, its membership, and its stake in any changes to government leasing policies. BOMA International, the oldest and largest trade association representing the office building industry, is made up of over 6,600 developers, owners, managers, service companies, investors and brokers, who own and manage over three billion square feet of office space in North America. United under the organizational umbrella of BOMA International, these real estate professionals are represented through 99 federated associations located in the U.S., Canada and around the world. This legislation is of concern to the office building industry in general, and BOMA members in particular, because of its potential impact on commercial real estate markets in cities where the Federal Government leases a substantial amount of space. BOMA has a long history of taking an active role in legislation of this

nature, and has testified before Congress on legislation of a similar nature in the past.

II. H.R.2790, THE "PUBLIC BUILDING AMENDMENTS OF 1987"

For the sake of clarity, BOMA will comment on the provisions of H.R. 2790 in the order that these provisions appear in the legislation.

Section 2. Increased Threshold for Approval Process

BOMA strongly supports the proposal to increase the authority of the GSA over leasing or altering office space from the current level of $500,000 to a more realistic figure of $1,500,000. BOMA believes that the $1,500,000 figure more accurately reflects today's market place, and replaces a figure ($500,000) which years of inflation have rendered obsolete.

Additionally, this increase will broaden the range of office space available to the GSA, freeing the Government from a time consuming approval process which the antiquated $500,000 figure necessitates. By expediting the time required for the acquisition of adequate space, the $1,500,000 figure will benefit both the lessee (the Federal government) and the lessor.

Section 3. Limitations on Leasing Authority

(a) Limitation on Appropriations for Leasing Certain Space.

While BOMA believes that the Administrator of the GSA should first attempt to locate Government agencies who are in need of office space requiring major alterations in Federally owned buildings (in the interest of saving the taxpayers' money), the provision of H.R. 2790 which calls for Congressional approval of alterations of leased space exceeding $1,500,000,

would not be advantageous to the Federal Government or building owners.

This requirement undermines the adequate oversight controls already in place within the GSA which guarantee an exhaustive study of available Federal space before private space is leased. BOMA strongly believes that the Congress should continue to place its confidence in the Administrator of the GSA when dealing with approval of alterations to leased space at the $1,500,000 level. Failure to do so by mandating Congressional approval would increase the lengthy GSA leasing approval process, adding as much as three months to the average 14 month lease finalization period (as estimated by the Charles E. Smith Companies of Arlington, VA). BOMA believes that the addition of three months to the already lengthy GSA approval process, even when considered against possible advantages offered by Congressional approval, is unjustified.

(e) Limitation on Leasing Certain Space

BOMA seeks the clarification of a number of vague and undefined terms used in this provision. In outlining GSA leasing limitations, H.R. 2790's use of the term "major" in describing computer operations and alterations in the structure or mechanical systems of leased buildings is unclear. BOMA would be comfortable with a plan which would allow the Administrator of the GSA to determine the definition of these terms.

Section 4. Dollar Amount Adjustment.

While BOMA supports the provision in this bill which allows the Administrator to adjust the prospectus threshold for future inflation, the Association believes that a more appropriate gage for these adjustments would be local construction costs or local commercial rental rates. The

compilation of these local figures could be administered by the local GSA regions and would offer a more equitable prospectus for all parties concerned.

Section 5. Time Financing.

BOMA believes that the public buildings policy of the United States should be to provide needed space through construction, acquisition, or leasing, according to whichever method will result in the lowest cost for the Government. The lowest cost method should be determined on the basis of a case-by-case, building-by-building cost analysis.

An exception to this "lowest cost" rule should be made for headquarters and monument buildings, which should be owned even if leasing would be less expensive. Another exception should be made for space needed for short or indefinite durations or which requires more flexibility than usual. In these cases, leasing usually provides a more attractive solution. In all other cases, in the interest of the taxpayer, the lowest cost method should be used.

BOMA advocates this policy because it believes that the office building industry will very often be able to provide better space, at the right time, in the right place, and at a lower cost than GSA. BOMA advocates an unbiased system for determining the lowest cost alternative and urges the Subcommittee to guard against any effort by those who favor Government construction to promote inappropriate federal ownership quotas, regardless of the cost, to bias the analysis against leasing.

While proponents of mandatory government ownership argue that their methods (including time financing) will lower the government-wide cost of housing federal employees, several existing market factors call such arguments into question. Because of the continued proliferation of

office building construction which has greatly expanded the pool of available office space, the GSA, as well as private lessees, are in a highly advantageous position to secure favorable leases and attractive tenant approval terms. BOMA's 1987 Year End North American Office Market Review shows vacancy rates in the three U.S. cities with the greatest amount of GSA-leased space (Washington, DC, Denver and Atlanta) averaging 20%, with a rental range per square foot of $3 to $35. These indicators point to favorable leases for the GSA.

The Subcommittee should also be aware that time financing may have a detrimental effect on the local and national economy if capital is inappropriately withdrawn from the private sector for the construction or acquisition of Federal building, either through taxation or Federal borrowing (as proposed under the time financing provision). If this occurs, private sector economic development will be preempted, economic inefficiency will result and economic growth will be retarded. Additionally, uneconomic Federal ownership of real property will undermine the tax bases of the cities.

Finally, by allowing the GSA to borrow and spend "off budget" in the construction of Federally owned buildings, as H.R. 2790's time financing provision allows, Congress surrenders its appropriative authority, as well as abrogates the budget authority of the Office of Management and Budget.

While BOMA recognizes the need and desirability of Federal ownership in some cases, the Association is concerned that the time financing provision of H.R. 2790 will remove the control Congress now has over the construction of buildings, and will not always result in the most cost-efficient plan for Federally occupied office space. We therefor cannot support the time financing provision of this bill.

BOMA International wishes to thank Senator Moynihan and the Subcommittee for the opportunity to express its views on H.R. 2790. Please feel free to contact the Association if we can be of any assistance to the Committee in the future on these or other issues.

II

100TH CONGRESS
1ST SESSION

H.R. 2790

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 1987

Received; read twice and referred to the Committee on Environment and Public Works

AN ACT

To improve the efficiency and effectiveness of management of public buildings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Buildings Amendments of 1987".

SEC. 2. INCREASED THRESHOLD FOR APPROVAL PROCESS.

Sections 4(b) and 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 603(b) and 606(a)) are amended by striking out "$500,000" each place it appears and inserting in lieu thereof "$1,500,000".

SEC. 3. LIMITATIONS ON LEASING AUTHORITY.

(a) LIMITATION ON APPROPRIATIONS FOR LEASING CERTAIN SPACE.—Section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)) is amended by inserting after the second sentence the following new sentence: "No appropriation shall be made to alter any building, or part thereof, which is under lease by the United States for use for a public purpose if the cost of such alteration would, when added to the cost of all other alterations made to such building or part thereof during the term of the lease (including extensions, amendments, or supplements) which have been paid for by the United States exceeds $1,500,000 unless such alteration has been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

(b) LIMITATION ON LEASING CERTAIN SPACE.—Section 7 of such Act (40 U.S.C. 606) is amended by adding at the end thereof the following new subsections:

"(e) LIMITATION ON LEASING CERTAIN SPACE.—Notwithstanding any other provision of this Act, the Administrator may not lease any space to accommodate—

"(1) major computer operations;

"(2) secure or sensitive activities related to the national defense or security, except in any case in which it would be inappropriate to locate such activi-

ties in a public building or other facility identified with the United States Government;

"(3) offices which would require major alterations in the structure or mechanical system of the building to be leased; or

"(4) a permanent courtroom, judicial chamber, or administrative office for any United States court;

except that the Administrator may lease such space if the Administrator first determines, for reasons set forth in writing, that leasing such space is necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

"(f) USE OF LEASING FUNDS.—Funds made available after the date of the enactment of this subsection to the Administrator for payment of rents shall also be available for the purpose of leasing space in buildings erected by the lessor on land owned by the United States.".

SEC. 4. DOLLAR AMOUNT ADJUSTMENT.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is further amended by adding at the end the following new subsection:

"(g) DOLLAR AMOUNT ADJUSTMENT.—Any dollar amount referred to in this section and section 4(b) of this Act

may be adjusted by the Administrator annually to reflect a percentage increase or decrease in construction costs during the preceding calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any such adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 5. TIME FINANCING.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is further amended by adding at the end thereof the following new subsection:

"(h) TIME FINANCING.—

"(1) ISSUANCE OF DEBT INSTRUMENTS.—Whenever the Administrator determines that the best interest of the United States will be served, the Administrator is authorized to issue debt instruments for purchase by the Secretary of the Treasury, to the extent authorized in annual appropriations Acts, in amounts necessary to finance the acquisition or construction of any public building.

"(2) TERMS AND CONDITIONS.—Debt instruments issued under this subsection shall be upon such terms and conditions as may be prescribed by the Secretary of the Treasury, taking into account that repayments

shall not begin until the building is ready for occupancy and shall not extend beyond the useful life of the building but in no case for more than 30 years from the date of the initial repayment.

"(3) INTEREST RATE.—Debt instruments issued under this subsection shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding marketable debt instruments of the United States of comparable maturity.

"(4) LIMITATIONS.—No authorization shall be made in an appropriation Act for the issuance of debt instruments under this subsection to finance the acquisition or construction of any public building for which a prospectus is required under this section, unless such acquisition or construction has been approved under this section.

"(5) BUDGETARY AND ACCOUNTING TREATMENT.—Notwithstanding any other provision of law, for budgetary and accounting purposes—

"(A) debt instruments authorized to be issued under this subsection in a fiscal year shall be treated as budget authority in such fiscal year only to the extent that such debt instruments are issued in such fiscal year; and

"(B) debt instruments issued under this subsection shall be treated as outlays in a fiscal year only to the extent that such debt instruments are liquidated in such fiscal year.".

SEC. 6. STATE ADMINISTRATION; SPECIAL RULES FOR LEASED BUILDINGS.

The Public Buildings Act of 1959 (40 U.S.C. 601–616) is amended by adding at the end thereof the following new sections:

"SEC. 19. STATE ADMINISTRATION.

"Notwithstanding any other provision of law, the Administrator may, whenever the Administrator considers it desirable, relinquish to a State, or to a commonwealth, territory, or possession of the United States, all or part of the jurisdiction of the United States over land or interests under the control of the Administrator in such State, commonwealth, territory, or possession. Relinquishment of jurisdiction under this section may be accomplished by filing with the Governor (or if none exists, with the chief executive officer) of such State, commonwealth, territory, or possession a notice of relinquishment to take effect upon acceptance thereof, or in such other manner as may be prescribed by the laws of the State, commonwealth, territory, or possession where such lands are situated. The authority granted by this section

is in addition to and not instead of that granted by any other provision of law.

"SEC. 20. SPECIAL RULES FOR LEASED BUILDINGS.

"(a) SPECIFICATIONS.—Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Service Act of 1949, the Administrator shall not make any agreement or undertake any commitment which will result in the construction of any building which is to be constructed for lease to, and for predominant use by, the United States until the Administrator has by regulation established detailed specification requirements for such building.

"(b) COMPETITIVE BIDS.—The Administrator may procure the construction of any building which is being constructed for lease to, and for predominant use by, the United States only by publicly soliciting competitive bids.

"(c) INSPECTIONS.—The Administrator shall inspect every building to be constructed for lease to, and for predominant use by, the United States during the construction of such building in order to determine that the specifications established for such building are complied with.

"(d) ENFORCEMENT.—

"(1) POST-CONSTRUCTION EVALUATION.—Upon completion of a building constructed for lease to, and for predominant use by, the United States, the Administrator shall evaluate such building for the purpose of

determining the extent, if any, of failure to comply with the specifications referred to in this section.

"(2) CONTRACT CLAUSE.—The Administrator shall ensure that any contract entered into for a building described in paragraph (1) shall contain provisions permitting a reduction of rent during any period when such building is not in compliance with such specifications.".

SEC. 7. COMPLIANCE WITH NATIONALLY RECOGNIZED CODES.

(a) IN GENERAL.—The Public Buildings Act of 1959 (40 U.S.C. 601–616) is further amended by adding at the end the following new section:

"SEC. 21. COMPLIANCE WITH NATIONALLY RECOGNIZED CODES.

"(a) BUILDING CODES.—Each building constructed or altered by a Federal agency shall be constructed or altered, to the maximum extent feasible, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes. Such other codes shall include, but not be limited to, electrical codes, fire and life safety codes, and plumbing codes, as determined appropriate by the Administrator. In carrying out this subsection, the Administrator shall use the latest edition of the nationally recognized codes referred to in this subsection.

"(b) ZONING LAWS.—Each building constructed or altered by a Federal agency shall be constructed or altered, to the maximum extent feasible, in compliance with all requirements (other than procedural requirements) of—

"(1) zoning laws, and

"(2) laws relating to landscaping, open space, minimum distance of a building from the property line, maximum height of a building, historic preservation, and esthetic qualities of a building, and other similar laws,

of a State or a political subdivision of a State that would apply to such building if it were not a building constructed or altered by a Federal agency.

"(c) SPECIAL RULES.—

"(1) STATE AND LOCAL GOVERNMENT CONSULTATION, REVIEW, AND INSPECTIONS.—For purposes of meeting the requirements of subsections (a) and (b) with respect to a building, the Administrator (or the head of a Federal agency with authority to construct or alter buildings) shall—

"(A) in preparing plans for such building, consult with appropriate officials of the State or political subdivision, or both, in which the building is to be constructed or altered;

"(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the usual schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Administrator or the head of the Federal agency, as appropriate—

"(i) before construction of the building is begun a copy of such usual schedule; and

"(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

"(2) LIMITATION ON STATE RESPONSIBILITIES.—Nothing in this section shall impose an obligation on any State or political subdivision to take any action under paragraph (1).

"(d) STATE AND LOCAL GOVERNMENT RECOMMENDATIONS.—Appropriate officials of a State or a political subdivision of a State may make recommendations to the Administrator or the head of a Federal agency, as the case may be, concerning measures necessary to meet the requirements of

subsections (a) and (b). Such officials may also make recommendations to the Administrator or the head of the agency concerning measures that should be taken in the construction or alteration of a building to take into account local conditions. The Administrator or the head of the agency shall give due consideration to any such recommendations.

"(e) EFFECT OF NONCOMPLIANCE.—No action may be brought against the United States and no fine or penalty may be imposed against the United States for failure to meet the requirements of subsection (a), (b), or (c) of this section or for failure to carry out any recommendation under subsection (d).

"(f) LIMITATION ON LIABILITY.—The United States and its contractors shall not be required to pay any amount for any action taken under this section by a State or a political subdivision of a State.

"(g) APPLICABILITY TO CERTAIN BUILDINGS.—This section applies to any project for construction or alteration of a building for which funds are first appropriated for a fiscal year beginning after September 30, 1989.

"(h) NATIONAL SECURITY WAIVER.—This section shall not apply with respect to any building if the Administrator determines that the application of this section to such building would adversely affect national security. A determination under this subsection shall not be subject to administrative or judicial review.".

(b) CERTAIN OTHER AUTHORITIES.—Nothing in the amendment made by subsection (a) shall be construed to affect the authorities granted in sections 5, 6, and 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f, 403g, and 403j).

(c) NOTIFICATION OF FEDERAL AGENCIES.—Not later than 180 days after the date of the enactment of this section, the President shall notify the head of each Federal agency of the requirements of section 21 of the Public Buildings Act of 1959.

SEC. 8. LIMITATION ON MAXIMUM RENTAL RATE.

Section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a) is repealed.

SEC. 9. PROTECTION OF FEDERAL PROPERTY.

(a) REFERENCE TO GSA.—The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318–318d) is amended—

(1) by striking out "Federal Works Agency" each place it appears and inserting in lieu thereof "General Services Administration"; and

(2) by striking out "Federal Works Administrator" each place it appears and inserting in lieu thereof "Administrator of General Services".

(b) INCLUSION OF LEASED PROPERTY.—Section 1 of such Act is amended to read as follows:

"SECTION 1. SPECIAL POLICE.

"(a) APPOINTMENT.—The Administrator of General Services, or officials of the General Services Administration duly authorized by the Administrator, may appoint uniformed guards of such Administration as special policemen without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator.

"(b) POWERS.—Special policemen appointed under this section shall have the same powers as sheriffs and constables upon such property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations promulgated by the Administrator or such duly authorized officials of the Administration for the property under their jurisdiction; except that the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.".

(c) CONFORMING AMENDMENTS.—

(1) SECTION 2.—Section 2 of such Act is amended by striking out "Federal property" each place it appears and inserting in lieu thereof "property".

(2) SECTION 3.—Section 3 of such Act is amended by striking out "and over which the United States

has acquired exclusive or concurrent criminal jurisdiction".

SEC. 10. TECHNICAL AMENDMENT.

The Act entitled "An Act to designate the United States Post Office and Courthouse in Pendleton, Oregon, as the 'John F. Kilkenny United States Post Office and Courthouse' " (Public Law 98–492; 98 Stat. 2271) is amended by striking out "Dorian" and inserting in lieu thereof "Dorion".

Passed the House of Representatives December 14, 1987.

Attest: DONALD K. ANDERSON,

Clerk.